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Editor's Page

Did a "new world order" materialize out of communism's collapse and the Gulf War, only to impose itself now on Iraq? With 9/11 a convenient, mediating excuse? The events of 1989-1991 produced vast change, but I think fluidity resulted—a new world flux, not a global fix. Claims of settled "order" rested on cold war premises. Simplistic conservatives celebrated "Western victory." Left-wing counterparts reduced the post-communist globe to "American imperialism." It is easy to take immediate circumstances for a bigger conceptual reality (your own), as Marxists used to point out. Doing so, power or prejudices may be served but not studied engagement with our world. One expects conservatives to resist reordering their thoughts; one wishes the left would be less conservative. ■ As I followed pre-war political rows, ranging from Testosterone TV (aka Fox News), where swagger substitutes for reflection, to shoddy attempts on the left to prove that Saddam's crimes were really Washington's sins, I recalled "Meeting Again," a pithy story by Bertolt Brecht. In it, Mr. Keuner runs into a fellow he has not seen in some time. "You haven't changed a bit," the chap remarks. "Oh!," says Mr. K., who then "turned pale." Perhaps some folks—whether right, left, or both at once—will revisit their pre-war exchanges and do likewise. Recall hawks insisting that Iraqi democracy would come easily and cheaply. (Why discuss costs when we cut taxes?) Recall doves insisting that UN scrutiny could reveal all weapons of mass destruction sequestered in Saddam's fascist state. (Those doves didn't propose that Iraq's dictator had spent years frustrating inspections in order to save a nonexistent arsenal). ■ This issue has stimulating articles for people who don't want Mr. K.'s experience. For example, Fred Smoler's dissection of myths about what happened in the war. Yitzhak Nakash's discussion of Iraq's Shiites is an antidote to the instant expertise that has cropped up everywhere. Sanford Levinson provokes a debate about torture that lends moral complexity to a chilling subject in this hour of war, terror, and John Ashcroft. ■ Suzanne Nossel's important essay emphasizes how "proliferation of independent voices" and breaks in "traditional patterns of allegiance" characterized the lead-up to war. The world-wide debate demonstrates "that although the international community's behavior sometimes warrants disdain or even contempt, the administration can neither ignore nor override it," except at great cost. Her account of global democratization suggests to me that we should treat with skepticism the claim that American "imperialism" was the last decade's key geopolitical feature. While I wonder if what she describes as democratization might turn out to be something different, pluralization of international power, her nuanced argument merits special attention.

M.C.

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Summer 2003

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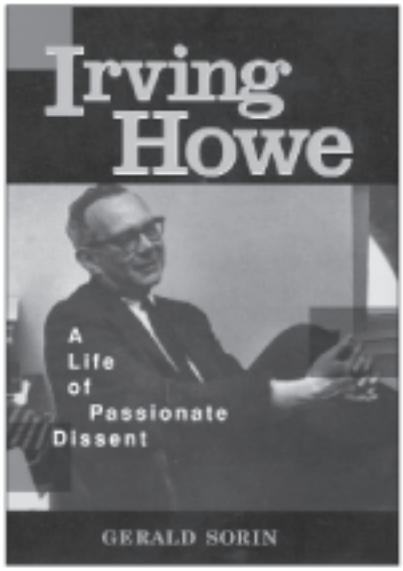

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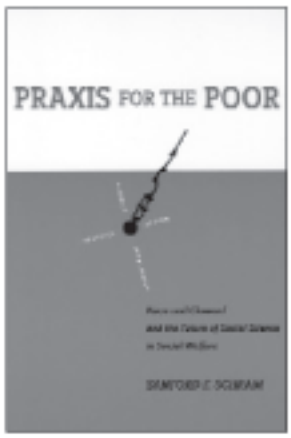

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Confronting the Contradictions

Plans for a Postwar Iraq

Ellen Willis

For me the event that most clearly represents the fecklessness of our hijacked government took place after the fall of Baghdad: the looting of Iraq's historic museum and burning of the national library in full view of American troops, who looked on and did nothing. The loss of life in war is terrible, yet the loss of a cultural legacy is arguably worse, for it negates the enormous amount of human energy devoted, over thousands of years, to the activities that make life meaningful—creating, preserving, remembering, passing on. We judge the loss of memory and consequent loss of self a calamity for the individual human being; how much more so, then, for a civilization?

This loss is doubly excruciating because it could so easily have been prevented. That the collapse of Saddam's regime amid the chaos of war would create a dangerous vacuum of authority was utterly foreseeable, yet the American military evidently had no plan to fill that vacuum and maintain law and order. Archaeologists and museum experts had warned the Pentagon about the danger of looting and provided information about what needed to be guarded; nothing was done. The oil ministry was protected; the museum and the library—and for that matter the hospital—were not. And afterward, where was the president's apology? Where were the calls for a congressional investigation? Where was our so-called opposition party—you know, the Democrats? Where was the media conglom—uh, the press? This should be a national scandal. Instead Donald Rumsfeld mumbled something rendered in family newspapers as "Stuff happens," and judging from their tepid reaction, the political class and the political-journalism elite agreed. Cultural critics were upset, but who cares about them?

On the Internet claims have circulated that the Pentagon, in league with rich collectors, deliberately allowed the looting. It says something about the nature of the Bush regime that I find myself unable to dismiss such charges out of hand. But larceny or criminal negligence, it hardly matters. The unbearable truth is that we are being governed by barbarians who have no compunction about sacking the world in the name of American supremacy (just as they sack their own country on behalf of its plutocrats). These are people unwilling to assume the most elementary responsibilities of an occupying power, even as they rush to claim the spoils. Witness their gleeful urgency to turn military victory into economic plunder: the contracts brazenly awarded to corporations like Bechtel and Halliburton; the plans to privatize and sell off Iraqi industries and use Iraqi oil to pay for reconstruction; the lies told about all of the above. But their behavior is not simply a matter of capitalist triumphalism or "the oil, stupid." It's also thuggish reveling in the power of brute force, with a millenarian tinge: history and culture are only in the way.

As I write, the main beneficiaries of the Bushite mentality appear to be the Shiite clergy, the only Iraqi force that's been organized enough to get moving on the task of restoring some semblance of normal daily life, and Baathist bureaucrats the Americans have kept in place, the better to facilitate our military's speedy exit (this maneuver has already generated protests by Iraqi doctors and professors). Which is to say that the aftermath of the war poses conundrums for the democratic left, as the war has all along.

I opposed the invasion of Iraq because I opposed the Bush Doctrine of preventive war and unilateralism; because I believed Afghanistan offered more of a clue to how the United

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States would behave after victory than Germany or Japan; because I feared open-ended adventurism abroad as a cover for ruinous economic and social policies at home. But I was uneasy in my opposition because I couldn't answer the question raised by Iraqi democrats like Kanan Makiya: how else, in a totalitarian society with a pervasive apparatus of state terror that had crushed all opposition, could the Iraqi people get rid of Saddam Hussein? I thought we owed the Iraqis for having failed to depose Saddam in 1991 and then failing to support the uprisings against him. Although I had no faith that the war would result in a democratic Iraq, I found it hard to argue that Iraqis would not be better off under virtually any kind of postwar government.

Shortly before the invasion, I attended a meeting addressed by Entifadh Qanbar, Washington director of the Iraqi National Congress (INC) and, like Makiya, a member of its democratic secular wing. Qanbar expressed his conviction, to much incredulity on the part of the academics and intellectuals in the audience, that George W. Bush and the Defense Department (unlike the State Department and the CIA) were committed to Iraqi democracy. Talking to him after the meeting, I remarked that for us, the Bush administration was a serious threat to *American* democracy, given the stolen election followed by the relentless pursuit of a hard-right agenda, assaults on civil liberties, abrogation of church-state separation, and so on. It was Qanbar's turn to be incredulous: I saw there was no way he could take seriously my complaints against the American government when the oppression the Iraqis were suffering was of a wholly different order. His skeptical look embodied the contradiction that bedeviled me: on the one hand, the impending Iraq war was about Iraq; on the other hand it was about the direction of world politics and of my own country.

THE WAR'S END has not resolved this conflict. In principle, it's clear what the left should stand for: multilateral supervision of security, peacekeeping, and reconstruction; handover as soon as possible to an Iraqi government; the rule of law; basic human rights—including, it always needs to be stressed, women's rights—and democratic institutions; and de-Baathification of Iraqi society. But applying these principles to the actually existing situation is at best a convoluted task. *Pace* those leftists who have moved seamlessly from "no war" to "end the occupation," the most immediate danger to the Iraqis is the Bushites' limited attention span. Having already demonstrated their boredom with the mundane task of policing, and ever unwilling to spend any money except on conquest itself, they are all too likely to pull our troops out prematurely, leaving behind a chaotic mess or whatever inheritors of power prove most convenient. If anything, we need *more* troops to establish and maintain security until an international force can take over.

Furthermore, if a liberal secular government is to emerge in Iraq, that project will require the active support of the United States. I suspect that, as Qanbar and Makiya claim, there is a significant constituency for such a government, given Iraq's large urban population. But the only indigenous organized group calling for a democratic secular state is the Communist Party, which is too small to hold its own against the Islamists. The other main force for liberal secularism is the dominant faction of the INC, headed by the much-maligned Ahmed Chalabi. From a left perspective it has two drawbacks: it's composed of exiles whose internal connections are uncertain, and it's sponsored by the Pentagon. Still, loath as I am to be aligned with Paul Wolfowitz on any matter, Chalabi and his people are good guys in this postwar context—democrats and insistent proponents of de-Baathification. Democratic leftists should support them, while also demanding that the Communists be included in negotiations to form a new government. At the same time, we should strongly oppose any effort by the State Department to make a deal with supposedly moderate, pro-democracy Shiite clergy, as urged by both the *New York Times* and the *Wall Street Journal*. Bush may well buy the conventional foreign-policy wisdom that we can be friends with good, pro-American fundamentalists who are easily distinguished from the evil terrorist kind. (As usual, the tradeoff of women's rights will not be seen

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as a problem.) That idea will be all the more tempting if the Iraqi Communists begin to be perceived as a threat. But in the current volatile situation it is doubtful that religious "moderates"—assuming they are not merely telling the Americans what they want to hear—would be an effective bulwark against the militant theocrats. The administration may want Turkey, but it could get Iran.

One last irony: to the extent that the war was about the future of the Iraqi people, the diplomatic establishment in the United States and Europe has been and continues to be a model of cynical, Metternichean unconcern. But to the extent that the war was about aggrandizing the Bush administration at the expense of international cooperation and American democracy, this same establishment—and the transnational corporations it represents—could be, for the moment, our best hope. The Bushites are a rogue regime, a runaway faction of capital. It's hardly in the interest of the mainstream of the global ruling class that international checks and balances on U.S. power dissolve, or that the American economy collapse under the weight of unemployment, reckless tax cutting, and huge military outlays. At a time when the American left is terminally weak and the Democrats reduced to a squeak, look to the corporate globalizers to rebel against the new American order. ●

Ellen Willis directs the Cultural Reporting and Criticism Program at New York University.

The War and the Republic

David Bromwich

The most fateful and clever decision made by George W. Bush's administration in the days just after September 11, 2001, was the decision to call the American response to terrorism a *war*. So much becomes possible in a war that would hardly bear to be thought of under any other name. National security would not justify a design for civilian spying on civilian neighbors. International self-defense would not immediately suggest public discussion of the torture of prisoners. Police action would not answer for the shooting-on-sight of looters in a conquered city where the invading army has found itself overstretched. Not that all of these policies have been put into practice yet. The spying program was actively promoted by the Bush administration, but, under a strenuous barrage of criticism and ridicule, it went tactically dormant and is now pursued in the secrecy that befits it. The legitimation of torture was a lively topic whose finer points some lawyers were drawn to debate last year with suitable realism and expertise. The exemplary killing of Iraqi looters by American soldiers was the fastest to be ditched of all these ideas, but its advocate, Paul Bremer, is still in office as I write at the end of May, and its time may come again.

Many things that would have shocked us a year ago no longer shock us today. And that is a terrible sign. Each new measure requires for its acceptance a new debasement of public morale, and rarely in recent months have the public or our lawmakers mounted a sustained challenge. A degree of skepticism, it is true, still greets the more outlandish proposals from the attorney general. But the skepticism seldom warms into controversy; it is held back by a mixture of fear and self-distrust. And as we wait and watch, we are being hardened for the extreme measures that another calamity may conjure up. The string of bombings in Saudi Arabia, Morocco, and Pakistan, which the conquest of Iraq did nothing to deter, may forebode a domestic incident about which the administration can say, "This is what we warned you about." And then the clampdown—because it is a war.

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That we were *already* at war, that we had been so before we recognized the fact, that we still would be in the future, even when events did not show the face of war—this presumption gave an immense advantage to the administration in the lead-up to the congressional debate that authorized the president's design for preemptive war in Iraq. We had been told, after all, by the vice president only days after the World Trade Center bombings, that this was a war some of whose battles would be hidden, some conducted in open view, the whole always progressing of course, but the mass of available knowledge always overshadowed by the necessarily larger mass of secrets. This was the context in which many Americans and perhaps the majority in Congress understood Iraq as a sequel to Afghanistan.

War gives the meaning and justification to every sentence uttered by this administration. The idea lies like a weight on the mind: a burden not to be displaced by a quip, a cunning aside, a closely argued logical proof. Beside it, every other thought shrinks to a parenthesis. The budget, foreign policy, the environment, our links to future generations and to the portion of humanity who are neither terrorists nor Americans—these considerations can be made to vanish when our minds are engorged by the thought of war. And yet, the clearance of all other issues was determined by a choice of the administration, a choice that seems irresistible only because it has not been resisted. The president lands on an aircraft carrier in his airman's suit—a hefty display of military swagger disdained by Eisenhower and Kennedy, presidents who actually fought in wars—and the applause was predictable. Where was the laughter?

But the time is rich in prodigies. Consider the sequence of events we have witnessed in the past twenty months. Soon after September 11, the public learned that the president and his advisers in the summer of 2001 had heard and done little to respond to warnings of a coming attack. Reluctantly, the president agreed to cooperate with a commission of inquiry to discover how the warnings came to be ignored. His first choice of a man beyond reproach to head the commission was Henry Kissinger—Kissinger, whose political career has made his name a byword for secrecy, connivance, flattery of the powerful, and indifference to the standards of democratic probity. This was too much even for a tractable public; but since the withdrawal of Kissinger, almost nothing has been heard from the commission.

The first grid of antisedition laws, the Patriot Act abridging civil liberties for the sake of security, was passed by Congress with only a semblance of debate, just six weeks after the bombings, at the time of the anthrax scare. Two of the recipients of anthrax letters—how often is this remembered, and by how many?—were Tom Daschle and Patrick Leahy, early and articulate critics of the administration's response to the bombings. Those letters remain an unsolved crime about which Americans have not been encouraged to feel much urgency. Meanwhile, the Patriot Act gave legal countenance to the roundup for questioning of thousands of Arab nationals and the detention or deportation of many others.

A second Patriot Act, drafted by the office of the attorney general though not yet enacted into law, contains some totalitarian elements. One provision would allow the government to delete from American citizenship and reclassify as a "hostile alien" any contributor to any group designated in secret by the government as a terrorist organization. The charge would stand whether or not the citizen knew of or had in any way abetted a terrorist act.

The ACLU keeps watch on such matters, and so do Nat Hentoff and a few others. You will not find much in the newspapers about the second Patriot Act, and a follower of the networks and cable television is almost totally in the dark. A great distance now separates the respectable American papers from the broadcast media. But oddly, an even greater distance separates American from European papers. From half a year of proselytizing on the necessity of preemptive war, most Americans came to favor the war in Iraq, provided the fighting could be short and the losses low. Most of the rest of the world believed the war was wrong; but a reader of American papers might be pardoned for not knowing this. Readers of the European and Asian press also saw photographs, widely distributed in every

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country except the United States, of children horribly maimed or horribly killed by American surgical-strike missiles that went astray or were wrongly targeted. In shunning those pictures, the American mass media, acting as one, opted for a policy of "restraint." This amounted to a regime of self-censorship of a kind unknown in the coverage of the Vietnam War.

Other exertions of restraint have affected the reporting of domestic news. It was a conscious editorial choice by the *New York Times*, for example, to print no aerial photograph suggesting the size of the February 15 anti-war protest in New York City. The *Times* chose instead to show a couple of hundred marchers at an intersection. This was responsible reporting compared to CNN, which ran a brief montage of the worldwide protests under the caption, "Anti-war protests delight Saddam." Jeff Greenfield, the CNN commentator, ventured once on the terrain of mild dissidence, saying that America's diplomacy had been a disaster. "A disaster?" replied CNN's anchor Paula Zahn. "That's pretty strong language, isn't it? We're about to go to war." "Oh," said Greenfield, relieved to be reined in. "I only meant in the context of this moment. The war, Paula, is going to be a great *tidal wave* that will make our memory of the diplomatic part seem like tiny footprints in the sand." On the news interview programs, through the months of preparation and again in the weeks of the war itself, we were treated to a redundant parade of Rice, Cheney, Rumsfeld, Perle, Rumsfeld, Cheney, and Rice. A libertarian critic in an off-prime hour was heard to ask the awkward question, "If it were state television, what would be different?"

AND WHAT of the Democrats? Considered as a party of opposition, they have been nerveless, listless, dead. As I write these words, the American search teams are getting ready to leave Iraq without having found the weapons of mass destruction that were the final justifications for fighting the war. This means that the Democrats, including John Kerry and Hillary Clinton, who voted to authorize the war, were hoodwinked by their president. Yet they show no outrage— nothing like the dignified acceptance of the task of criticism that one could see in senators William Fulbright and Frank Church when evidence emerged that the documentary basis for the Tonkin Gulf Resolution had been forged. The fact is that this president, and his secretaries of state and defense, and the media-friendly Cheney circle all concurred in presenting their cooked intelligence estimates as a sure thing. Now a rapid victory in the war, with the defeat of a tyrant internally strong but externally weak, is being offered to the American people as the end that justifies the means. If the opposition party allows this to pass, future wars, reclassified as the battles of one war, will be fought for the sake of victories that justify every deception retroactively.

But let us say what must be said for a politically gifted administration. They have shown immense ability in deploying the fear that has been the strongest current of feeling in this country for the past twenty months. The speech writers for Bush and the strategists and publicists of the Cheney circle have realized, what the Democratic Party does not yet see, that fear is an emotion that changes every political reckoning. Whether or not the United States is attacked, the potency of this mood will not abate much in the year and a half before the next election. Nor is it likely to fade entirely in six years, or in sixteen. A party of opposition cannot simply resolve to wait for public opinion to come to its senses. Such a moment does not come unprompted, and while we are waiting, the national mood continues to be debauched, and the spirit of liberty weakened, every day, by an essentially revolutionary policy that looks to exchange the virtue of a free people for the domination of an empire.

The names and reasons assigned for war will change—projection of American power in the Middle East, the cause of democracy throughout the world, control of nuclear weapons, the demolition of one more training camp—we have heard them all in varying order, and we will hear them again. Sometimes the assigned reason will be true, sometimes not, but the force to act on the reasons is in the hands of skillful jugglers, and in the face of that staring fact nothing can save the Democrats but the triumph of principle. They will have to look hard at the world, and at this coun-

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try, and tell us what they think; and not, this time, be stunned into silence by the watchwords of demagogues: critical period, national mood, real emergency, unified spirit, comfort level. The tranquilizing words will continue to spin, but none of those words is worth the freedom of a single American stripped of his rights and reclassified as a hostile alien. The Democrats, or whatever opposition does constitute itself in the next few months, will have to think hard about this nation and about the world; and if they want a hearing, they will have to think out loud. ●

DAVID BROMWICH is an editor of *Dissent* and professor of English at Yale University.

Thinking About 'Victory' in Iraq

Jeffrey C. Isaac

As I WRITE in mid-May, what George W. Bush has described as "the second battle in the war on terrorism" appears to have been won. My charge is immensely easier than that presented to those who, in winter, were asked to comment in these pages on the likelihood of war in Iraq. Or so it seems. For the catastrophic scenarios put forth by many on the antiwar left—of quagmires and inflamed Arab masses and negative domino effects—seem to have been disproved. Although the war, like all wars, was bloody and destructive, according to any criteria other than pacifist ones it is hard to resist the conclusion that its benefits—the ousting of Saddam, the creation of the possibility of a more civil, hospitable, and peaceful regime—have exceeded its costs (though these have not yet been fully tallied, and, as in all things, they have hardly been distributed evenly).

At the same time, both the "realistic" and triumphalist scenarios of the pro-war right—shared by many supporters of the war not on the right—seem also to have been disproved. As of this writing no substantial weapons of mass destruction have been discovered in Iraq, thus calling into question the primary Bush rationale for the war—though, to be fair, the administration put forth a cacophony of rationales to suit whatever occasions arose. It is equally hard to discern the overwhelming Iraqi popular support for a U.S. invasion that was predicted by neoconservative ideologues of war. In the wake of the Hussein regime, what we have seen is the breakdown of law and order, the looting of cities, vengeance killings, and nationalist and religious demonstrations—hostile and sometimes violent as well—that American servicemen have met with rifle fire. None of this is auspicious, and pretty much all of it was predictable.

What does this all mean? I think it means that the war has proved more complicated in its immediate results than was anticipated by its supporters and its critics. Again, this is easy to say in retrospect, and it is a truism of politics that the future is indeterminate. But I think that the "truth" of this observation extends beyond an easy post hoc judgment. It suggests that making sense of the current world moment eludes a triumphalism of the right or a catastrophism of the left. Let me elaborate, briefly and tentatively.

This war lacked a clear or consistent rationale. Yet it is fair to say that the primary official justification, shared by many supporters not associated with the administration, was the need to overthrow the Hussein regime in the name of higher values, whether these be the values of antiterrorism, security, or "democracy." Now that the Hussein regime has been dispatched, and rather hastily, these supporters have been quick to interpret this war as vindication of the rationales offered on behalf of

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starting it—as proof of the strategy of confronting "rogue states" by means of "preventive wars," of the broader Bush national security strategy of asserting U.S. hegemony everywhere, and of the practicality of the effort to remake the world in the image of (a certain truncated conception of) American democracy. But this war proves none of these things. The military defeat of Iraq was never really in doubt. It is true that many believed the war would last longer and that the costs would be higher. And there can be no doubt that extraordinary technologies of precision bombing and innovative Special Forces tactics point to new and more efficient ways of exerting U.S. military power. But there is also no doubt that good luck played a role in the speed of the war. No one knew that it would end so quickly and, furthermore, it is not really over. It now remains for the United States to do what it said it would do, to help build a "new" Iraq, which would enhance the freedom and quality of life of the Iraqi people and could serve as a platform for the liberalization of the Arab world and for peace between Israel and the Palestinians. It is too early to tell whether any of this will be attempted in a serious way, much less whether it will be achieved; or whether, in the medium term, or even the short term, the Iraq operation will be another source of "backlash." The example of Afghanistan, where halfhearted "nation-building" has given way to malign neglect, is not encouraging. My point: it would be both morally wrong and politically foolish for supporters of the war to promote the new "Rumsfeld doctrine" in Iran or Syria or North Korea, in the expectation that where U.S. troops go "liberation" follows.

The Iraq War has liberated Iraq from Hussein. But it was not a "war of liberation," in the sense of a war that was motivated by a clear policy designed to free Iraqis, and it was certainly not a war on behalf of liberal values. It was a war prosecuted by an antiliberal administration, through antiliberal means, and on behalf of an arrogant and bellicose vision of world politics. It eliminated something bad; but whether it will replace it with something better is an open question. It is a question that supporters of the war must take more seriously than they have done so far.

The media and the political elite failed to raise the hard questions about the likely consequences of the war and about the Bush administration's failure to prepare for them. The political culture has reacted to "victory" in Iraq with a disturbing smugness. Asking the hard questions and challenging the smugness in the name of a more ethically and intellectually serious reckoning with war and with the requisites of a sane global politics is a worthy task for writers, scholars, and activists on the liberal left. The fulfillment of this task requires a vigorous defense of civil liberties and of the principles of political pluralism, the rule of law, and democratic accountability, all of which have been cavalierly dismissed by the Bush administration. It requires also a serious discussion about when war is justified and when it isn't, in the name of "security" and in the name of human rights.

THE CENTRAL questions that we must raise in the wake of the "victory" in Iraq are the following: Can any relative goods come of the war? How are such goods most likely to be achieved? How can intellectual, ethical, and political pressure be brought to bear on U.S. power so that its exercise improves the situation in Iraq and in the Middle East more generally? To ask these questions is to abandon leftist certainties about catastrophe and to acknowledge the possibility, slim to be sure, that U.S. hegemony might sometimes have beneficial consequences. This is not in any way to glorify the war or to gloss over the disturbing agendas and policies of the Bush administration. As Jonathan Schell has argued, the Bush administration is profoundly antiliberal, and liberals who imagine that it will serve their values are foolish. At the same time, it is not as if the terrorist organizations and tyrannical regimes against which Bush sets himself are promoters of liberal values. And even the Rumsfelds of the world must reckon with the fact that the world often eludes their purposes. It is for this reason that creative political thinking is imperative: it won't herald a new liberal dispensation, but it will serve to sustain a sense of sobriety in a world of rival fanaticisms. ●

JEFFREY C. ISAAC's most recent book is *The Poverty of Progressivism*.

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Where the Peace Movement Went Wrong

Nathan Newman

When U.S. troops entered Baghdad, I was very glad to see the pictures of Iraqis celebrating freedom from Saddam's dictatorship. Not because they changed my view that the war was wrong, but because they meant that for some Iraqis the death and devastation of the war would be offset by their freedom from Saddam's yoke.

The problem for the peace movement is that its activists failed to argue persuasively that war was not the best way to achieve this goal, leaving many Americans with the sense that the choice was between fighting and doing nothing—which ended up tilting moderates reluctantly toward the war camp. For them, the war involved fighting a brutal regime that abused its own people and invaded its neighbors. That the Bush leadership had other, nastier intentions is another question—since progressive people could see the Bush administration doing the right thing for the wrong reasons. So the antiwar argument had to be about alternative ways to achieve the goal of a freer and more democratic Iraq—and about the unlikelihood that Bush and Co. would actually do that.

The antiwar movement lost the argument on the efficacy of alternative means partly because of its simplistic choice of "no war" unity over a more sophisticated and positive message—which also would have required more outreach to people who don't go to rallies (and probably less focus on rallies). And when we allowed groups such as the Workers World Party, which had defended the Hussein regime in the past, to lead some of the antiwar rallies, many folks might rightly have thought that such a movement had no real plan to challenge Saddam's regime.

If we want to oppose war effectively, we need to provide a far clearer roadmap showing how we plan to support those who resist oppression. Mouthing lines about national sovereignty in cases like Iraq is as hollow as Bull Connor's using states rights rhetoric to justify keeping the National Guard out of the South. There is absolutely nothing wrong with humanitarian intervention in principle. What should be opposed is the use of military force when nonviolent solidarity is more likely to lead to a just result and to impose much lower costs on the population. But in the case of Iraq, the lack of an articulated plan to help those resisting Hussein is exactly what strengthened the argument of the hawks that their method was the only way to "liberate" Iraq. There was no counter-argument from the antiwar movement about how it was acting, or could or would act, in solidarity with the oppressed people of Iraq. That was the fatal flaw of antiwar organizing.

The left cannot plead lack of time, because it had all the time necessary between the Gulf War and the Iraq War to mount a public education campaign in defense of Kurdish and Shia human rights and for nonviolent strategies that could have served as an effective alternative to war. It was the first Bush administration that sold out both the Kurds and the Shias when they rose up in 1991, yet the left failed to rally to their support.

That was a substantial reason why many liberals moved into a position of support for the war. You can say they were all misinformed by the media, but in January and February of this year, only about one-third of the American public supported war without significant global support, as signified by UN endorsement, whereas by March and April an additional 40 percent supported Bush's unilateral intervention. It was the failure of the antiwar forces to hold that 40 percent that needs to be analyzed.

The neoconservatives had been doing their intellectual outreach for years, publishing

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books, holding policy conferences, organizing at the grassroots to solidify an ostensibly moral basis for their position, while the left was largely throwing its critique together on the fly.

The left was flatly outorganized on this issue, not because it had fewer resources but because its activists just didn't do the work necessary for a serious intellectual engagement. Failing that, the only "unity" position possible was the simplistic "no war" message, and anyone, including pro-Hussein propagandists, could speak in the name of the antiwar movement. The message was too thin, and it failed.

The broader democratic left is responsible for that failure: its myriad groups and endless divisions means that it cannot sustain the solidarity necessary over the long haul to debate and develop a positive political strategy. There is too much self-indulgence, too many ego-driven and fundraising-driven organizational divisions, too many tiny groups without the needed heft for long-term organizing. There is no space where the millions of people who rallied against the war ever have a chance to participate beyond showing up at a rally.

With no long-term alliances to develop a coherent strategy and no groups with a mass of members, we end up at any moment of crisis depending on the usual list of famous names and obscure grouplets to legitimatize and organize our efforts. This ad hoc method of operating leads to little more than agreeing on NO as the only message. And that's not enough.

Bits and pieces of a more sophisticated response to the war, moral and political, appeared sporadically at antiwar rallies, but they were marginal to the simplistic "no war" legalisms and "unity" rhetoric. Speakers at the rallies I went to were preaching to the converted, not to those who were unconvinced of Bush's complete perfidy and for whom an actual argument was necessary.

The antiwar movement was a failure. Many of my left friends will point to the "success" of the large rallies, but what's the achievement? Rallies are means, not ends. Why should we praise tactics that coincided with an increase in support for unilateral war?

There should have been broader mass outreach to the unconverted middle, whether door-to-door, going to community meetings, or just talking on street corners to those who would listen. Although there was some impressive Internet outreach by groups such as MoveOn.org and some broader outreach by select groups, the overall de-emphasis on door knocking and the attached organizing is the exact problem with the strategy of much of the antiwar left that preferred to talk to itself at rallies or in its existing media circle.

Things need to change, and quickly. We might start by concentrating on working to guarantee that the Iraqi people get the democracy they have been promised, keep control of their oil resources, and escape their country's debt (much of which is owed to the Western governments and companies that armed the military we just fought). The left needs a positive agenda, not merely a defensive NO as its reflexive organizing response.

More broadly, we need a global message of solidarity with all who are experiencing oppression and human rights violations, whether by governments allied to the United States or by governments opposing it. We need a clear moral message, for in a world where the U.S. military has demonstrated that no military force can oppose it, only a cohesive global movement exerting clear moral force will be able to defeat Bush's unilateralism.

Despite the shift of public opinion toward the pro-war position once the war started, the earlier opposition to unilateral war making shows that there is fertile ground for organizing among the broad public, in the United States and abroad. But the democratic left still needs to build the right kind of organizations and develop the right message to reach them. ●

Nathan Newman is a union lawyer, longtime community activist, and author of the just published book *Net Loss*, on Internet policy and economic inequality. Email nathan@newman.org or see www.nathannewman.org. This article is adapted from a column originally written for the *Progressive Populist*.

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Publications Fulfillment Department
Carnegie Council on Ethics and International Affairs
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Genocide in Gujarat

The International Community Looks Away

Martha C. Nussbaum

On February 27, 2002, the Sabarmati express train arrived in the station of Godhra, in the state of Gujarat, bearing a large group of Hindu pilgrims who were returning from the alleged birthplace of the god Rama at Ayodhya (where some years earlier, angry Hindu mobs had destroyed the Babri mosque, which they claim is on top of the remains of Rama's birthplace). The pilgrimage, like many others in recent times, aimed at forcibly constructing a temple over the disputed site, and the mood of the returning passengers, frustrated in their aims by the government and the courts, was angrily emotional. When the train stopped at the station, passengers got into arguments with Muslim vendors and passengers. At least one Muslim vendor was beaten up when he refused to say "*Jai Sri Ram*" ("Hail Ram"), and a young Muslim girl narrowly escaped forcible abduction. As the train left the station, stones were thrown at it, apparently by Muslims.

Fifteen minutes later, one car of the train erupted in flames. Fifty-eight men, women, and children died in the fire. Most were Hindus. Attempts to determine what really happened by reconstructing the event have shown only that a large amount of a flammable substance must have been thrown from inside the train. We will never know who threw it. Because the area adjacent to the tracks contained Muslim dwellings, and because a Muslim mob had gathered in the region to protest the treatment of Muslims on the train platform, blame was immediately put on Muslims. (One former chief minister of Gujarat, Amarsinh Chaudhary, argued that the blaze was set by Hindu nationalists. Many others agree, especially in light of later evidence that the subsequent rioting had been elaborately prepared.) No evidence has been found linking alleged Muslim perpetrators to any organized movement or group.

In the days that followed, wave upon wave of violence swept through the state. The attackers were Hindus, many of them highly politicized, shouting Hindu-right slogans, such as "*Jai Sri Ram*" and "*Jai Hanuman*" (an aggressive monkey god), along with "Kill!" "Destroy!" "Slaughter!" There is copious evidence that the violence was planned before the precipitating event. The victims were almost all Muslims (with an occasional Christian or Parsi thrown in). There was no connection between victims and the alleged perpetrators; attacks took place, for the most part, far from the original site. Many families of the original dead implored the mobs to stop the violence. Nonetheless, more than two thousand Muslims were killed in a few days, many by being burned alive in or near their homes. Nobody was spared: young children were immolated along with their families.

Particularly striking were the mass rapes and mutilations of women. Typically, a woman would be raped or gang-raped, often with gruesome tortures, and then set on fire and killed. Historian Tanika Sarkar, who played a leading role in investigating the events, has argued that the evident preoccupation with destroying women's sexual organs reveals "a dark sexual obsession about allegedly ultra-virile Muslim male bodies and overfertile Muslim female ones, that inspire[s] and sustain[s] the figures of paranoia and revenge." This sexual obsession is evident in the hate literature circulated during the carnage, of which the following "poem" is a typical example:

> Narendra Modi [chief minister of Gujarat] you have fucked the mother of [Muslims]
> The volcano which was inactive for years has erupted
> It has burnt the arse of [Muslims] and made

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them dance nude
We have untied the penises which were tied till now
Without castor oil in the arse we have made them cry . . . .
Wake up Hindus, there are still [Muslims] alive around you
Learn from Panvad village where their mother was fucked
She was fucked standing while she kept shouting
She enjoyed the uncircumcised penis
With a Hindu government the Hindus have the power to annihilate [Muslims]
Kick them in the arse to drive them out of not only villages and
Cities but also the country. [The word rendered "Muslims" (*miyas*) is a word meaning "mister" that is standardly used to refer to Muslims.]

As Sarkar says, the incitement to violence is suffused with anxiety about virility, and the treatment of women seems to enact a fantasy of sexual sadism far darker than mere revenge.

During the violence, many Muslim cities and villages were burned to the ground. Muslims of all social classes fled for their lives. One former chief justice of the Rajasthani High Court, living in retirement in Gujarat, fled, later commenting to an investigative tribunal that there was "a deliberate conspiracy to stifle criminal law."

What this witness meant was that the carnage was aided and abetted both by the police and by local politicians. Police egged on the inciters, either passively, by failing to respond to calls for help or, in some cases, more actively. It is now clear that police received orders not to intervene in the carnage, and that those who disobeyed these orders were punished by demotions and transfers. After the fact, police made it virtually impossible to register criminal complaints. Meetings were held between police and local government leaders, at which Hindus were called "we" and Muslims "them," and pleas of some officers to take action against rioters were rejected. Meanwhile, local leaders of the Hindu-right were seen shouting slogans and inciting the mob to further violence.

Particularly upsetting was the active participation of tribal and lower caste Hindus, *adivasis* and *dalits*, in the violence against equally poor Muslims. The Hindu nationalist party, Bharatiya Janata (BJP), has succeeded all too well in its strategy of getting many lower caste Hindus to put religion ahead of caste and class and to fear as their enemies not the wealthy and upper caste Hindus who have long oppressed them, but the Muslims who in most cases share their economic misery.

Ideological Background of Hindu Nationalism

The events of March 2002 emerged from a long history of deliberate construction of hate. For some time, a lot of money (whose sources I shall discuss later) has been poured into the creation of camps for young Hindu men, where they are taught hatred and fear of Muslims and partisan fervor is cultivated. For older folks, the Vishwa Hindu Parishad (VHP), the cultural wing of the Hindu nationalist movement, organizes pilgrimages to Ayodyha, which invariably stir up sectarian emotion.

But the history of the episode goes back much further. We need to consider the origins of the BJP (the political arm of Hindu nationalism) and its allied organizations, the umbrella Rashtriya Swayamsevak Sangh (RSS), the Bajrang Dal (paramilitary), and the VHP (cultural). When we examine this history, we see that the tensions between Hindus and Muslims expressed here are not "ancient" or even indigenous hatreds. They result from a borrowed fascist ideology of purity, which has gradually been imposed, transforming a Hinduism that in its origins is plural, diverse, and tolerant.

The ideologue whose views were central in the formation of the RSS and BJP, M. Golwalkar, derived many of his views from German romantic nationalism, and especially from its National Socialist formation. In his 1939 tract *We, or Our Nationhood Defined*, Golwalkar argues that only Hindus are true Indians, and that Muslims, Christians, Parsis, and Jews are all foreigners, who should stay in the territory only on terms set by the Hindus.

> [T]he foreign races in Hindusthan must either adopt the Hindu culture and language, must learn to respect and hold in reverence Hindu religion, must entertain no idea but those of

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> the glorification of the Hindu race and culture, i.e. of the Hindu nation, and must lose their separate existence to merge in the Hindu race, or [they] may stay in the country, wholly subordinated to the Hindu nation, claiming nothing, deserving no privileges, far less any preferential treatment—not even citizen's rights.

Golwalkar portrays the Muslims, particularly, as outsiders and "despoilers" who must now finally be "shake[n] off." Expressing his sympathy with the Nazi program, he writes:

> To keep up the purity of the Race and its culture, Germany shocked the world by her purging the country of the Semitic Races—the Jews. Race pride at its highest has been manifested here. Germany has also shown how well nigh impossible it is for Races and cultures, having differences going to the root, to be assimilated into one united whole, a good lesson for us in Hindusthan to learn and profit by.

As late as 1966, Golwalkar repeated the same views, calling Jews and Parsis "guests," and Muslims and Christians "invaders." And he explicitly attacked the Indian Constitution (drafted in 1950) for its pluralism and secularism: "Unfortunately in our country our Constitution has equated the children of the soil with the aggressor, and given equal rights to everybody."

Such attitudes have nothing to do with the history of the Hindu religion or with any religious doctrines dating from before the 1930s. Hinduism, rather like ancient Greek religion, has traditionally been plural, loosely organized, regional, and highly varied. The very idea that Rama is the one central god in the Hindu pantheon is itself a BJP political construct. In some regions Rama was important, in others not, and in some he was not even thought of as an admirable deity. Hindus and Muslims have traditionally borrowed a lot from one another, and it is futile to inquire into the origins of a given practice. Most salient differences that studies of human well-being measure (for example, differences regarding the status of women) are regional rather than religious; that is, Hindus and Muslims in a given region have similar practices in many important matters. Over the years, however, the BJP has worked very successfully to create the public perception that Hinduism really is what the BJP says it is, and that Islam is very different, dedicated to violence and subversion and to the oppression of women. Through highly effective use of mass media, and, lately, through linking its propaganda to international anxieties about Islam, it has achieved a wide success.

BJP leaders sometimes try to distance themselves from Golwalkar and his somewhat more polite fellow ideologue V. D. Savarkar, but there should be no doubt what the program really is. The recent rewriting of textbooks under the auspices of M. Joshi, current minister for education, has led to systematic falsification of the history of Hindu-Muslim interactions, with Hindus portrayed as virtuous victims and Muslims as bloodthirsty aggressors. (A part of this effort has been a vicious campaign, in both India and the United States, to smear the reputation of Romila Thapar, a distinguished historian of ancient India, now holding a prestigious chair at our Library of Congress, who has courageously insisted on the truth about past events.) The pluralism and syncretism that have always characterized Hinduism is also effaced, and the absolutely clear fact (clear from the Vedas themselves) that Hindus once ate beef may not be mentioned. The new literature textbook contains sentences such as, "Kabir is a nice boy, even though he is a Muslim." In history texts the Nazi regime is described admiringly. The official Gujarat high school textbook on social studies for Class IX makes the blatantly false claim that in most states Hindus are in a minority and that Muslims, Christians, and Sikhs are in the majority—even though Hindus are approximately 85 percent of the population and Muslims less than 10 percent. In short, the agenda of the BJP, clean it up as they may for electoral purposes, would deny to minorities, especially Muslims and Christians, full equality under the Constitution. In the service of this agenda, appeals to fear of minorities and incitement to threatening and sometimes violent actions against them are absolutely central.

Violence from the RSS is a daily threat in many parts of the nation. In Lucknow, a city with a history of warm cooperation and syncretism between Hindus and Muslims, saffron-

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clad youth brigades now parade around the university campus and threaten young women who wear blue jeans or celebrate Valentine's Day, practices that they deem Western and Christian. Five years ago, the female acting vice chancellor of the University, Roop Rekha Verma, a philosopher and a courageous activist for women's rights and minority rights, found her office occupied by three hundred such youths. She managed to get them to disperse peacefully. This is the way things are in areas where the BJP is strong: a general atmosphere of threat prevails, and essential civil liberties are fragile. In many regions, economic boycotts directed at Muslim businesses have had a major impact.

Gujarat has been unusually prone to outbreaks of both anti-Christian and anti-Muslim violence, and its elected BJP officials ran on a strong Hinduization platform. Why should tensions run high in Gujarat, the state that gave birth to Gandhi's campaign of nonviolence, the state that saw the birth of Ela Bhatt's now world-famous movement to organize female workers? One plausible conjecture is that the Muslims of Gujarat play a somewhat different role in society than Muslims elsewhere in India. Elsewhere, Muslims are on average poor, ill-educated, downtrodden. In Gujarat, although most Muslims are very poor, a significant number have been a merchant class, well off and socially prominent. They can thus be compared to the Jews in Europe: as successful people they more easily arouse fear and resentment. Still, before the advent of the BJP and RSS, Hindus and Muslims for the most part lived side by side in amity.

Reactions and Aftermath

As I have said, the mass killings and rapes of innocent Muslims were aided and abetted by the police and leading politicians. Let us look more closely at the reactions of people higher up.

The main response of BJP officials was to deploy a logic of action and reaction: yes, these things are tragic, but what do you expect? Once someone starts it, events take their inevitable course. In other words, once a small number of Hindus are allegedly killed by a small number of Muslims, it is inevitable that Hindus will riot and murder lots of innocent Muslims and nothing will be done about that. BJP chief minister Narendra Modi during the events, stated, "What is happening is a chain of action and reaction." Shortly after that, he said, "It is natural that what happened in Godhra the day before yesterday, where forty women and children were burnt alive, has shocked the country and the world. The people in that part of Godhra have had criminal tendencies. . . .And now they have done this terrible crime for which a reaction is going on." Modi's statements not only justified the violence as a response to an alleged long history of "criminal tendencies," they also portrayed it as unstoppable, more like a natural cataclysm than a set of blameworthy human acts. Local VHP leader Ashok Singhal took this "Newtonian logic," as it was called in the press, one step further: the rioting was "a matter of pride," "a befitting reply to what has been perpetrated on the Hindus in the last 1000 years. Gujarat has shown the way and our journey of victory will begin and end on the same path."

At the national level, the government followed a similar rhetorical strategy, a little more deviously. Although some BJP leaders, as well as the opposition, called for Modi's resignation (which the national party could require), other influential leaders defended his conduct. Among his most ardent defenders was Arun Jaitley, minister of law. (Jaitley, a smooth Westernized man who goes down well with the Indian American community, was briefly shifted to a party post, but now he is back in the Law Ministry.) Prime Minister Atal Behari Vajpayee, who is usually considered a moderate, the "decent" face of the Hindu right, showed his true colors in a speech given to a party congress at Goa, on March 3, 2002, in which he said:

> What happened in Gujarat? If a conspiracy had not been hatched to burn alive the innocent passengers of the Sabarmati Express, then the subsequent tragedy in Gujarat could have been averted. But this did not happen. People were torched alive. Who were those culprits? The government is investigating into this. Intelligence agencies are collecting all the information. But we should not forget how the tragedy of Gujarat started. The subsequent developments were no doubt condemnable, but who lit the fire? How did the fire spread? . . . .Wher-

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> ever Muslims live, they don't like to live in coexistence with others, they don't like to mingle with others; and instead of propagating their ideas in a peaceful manner, they want to spread their faith by resorting to terror and threats. The world has become alert to this danger.

Although other parts of Vajpayee's speech appear to defend the concept of a pluralistic, tolerant India, here he adopts Modi's logic of action and reaction and fails to condemn either the actions of the Hindu perpetrators or the inaction of the police. The government's official inquiry into the events is plodding on, and is unlikely to deliver or to act on the truth.

The opposition Congress Party did condemn the events but not very strongly. In contesting the subsequent election in Gujarat, it chose a course of moderate Hinduization, trying to capture votes by moving to the center (a familiar tactic!), rather than rejecting the Hindu-nationalist program and defending pluralism and equal rights. It thus lost all moral credibility, as well as the election.

Who behaved well? Although the Gujarati press systematically concealed the real nature of the events (apart from the one Muslim newspaper), the national press on the whole covered events admirably and dissected the statements of leading politicians with suitable skepticism. The national Electoral Commission also played a good role, postponing new elections until the rule of law could be reestablished and at least some Muslim refugees were able to return home. (Of course, in many cases they had neither homes nor jobs to return to. The government was quick to build roads and temples over the ruins of Muslim homes. Relief and reconstruction are still virtually nonexistent.) Several investigative groups did heroic work, going to the refugee camps to collect data. Most important was the independent Concerned Citizens' Tribunal, chaired by former chief justice Krishna Iyer, one of the most distinguished jurists in India's history. This commission, which included lawyers, judges, and academics, produced as complete a record of the events as we are ever likely to get, collecting 2,094 oral and written testimonials, interviewing hundreds of witnesses, gathering pamphlets and other texts, and identifying culpable individuals. Now we know who should be charged with various offenses, even if it is unlikely that charges will ever be brought.

In the course of its work, the commission found chinks in the BJP's armor. One leading minister testified at length under condition of anonymity. And there were numerous prominent Hindus from Gujarat who came forward to deplore the events and to give what information they could. A particular favorite of mine is Piyush Desai, CEO of the Gujarat Tea Processors and Packers Limited, which produces the popular Wagh Bakri brand of tea. Mentioning that his business was started a hundred and ten years ago through the help of a Muslim who gave his grandfather a large loan, he spoke eloquently of the history of cooperation between the religions in Gujarat, deplored the crimes, and said of the help he had received from Muslims, "However can we repay such a debt?" The commissioners comment, "This witness was a fresh and welcome ray of hope for the Tribunal." They mention that he paid for tea for all the refugee camps out of his own pocket, "along with paper cups that are hygienic."

In December 2002, Modi won reelection by a landslide, playing the cards of hate and fear. Muslim businesses in many areas of Gujarat have been taken over by Hindus, as their owners have fled, and so the condition of Muslims in the state is worse than ever. The continuing economic boycott deprives even those who remain of much of their livelihood. Indiscriminate arrests of Muslims continue, often under the screen of the national Prevention of Terrorism Act, a favorite BJP piece of legislation. There is one ray of hope: the BJP, trying to use this same hate politics in other recent state elections, has not prevailed. In particular, in Himachal Pradesh, the party went down to a solid defeat last winter. So the implications of the carnage for national politics are as yet unclear, and one may still hope for a multireligious democracy in India.

Genocide and Law

How should concerned citizens of the world think about these terrible events? I suggest that six features are especially relevant.

1. **Genocide.** It is an undisputed fact about Gujarat that there were mass killings and rapes

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on grounds of religion. Muslims were sought out not because of any even imagined complicity in the precipitating event at Godhra, but simply because they were Muslims. Slogans shouted by the mob indicate that their intent was to assert Hindu superiority, to exterminate Muslims, and to destroy Muslim society: for example, "Kill them all, destroy their society." "Finish off all Muslims; our people were not spared by them, don't have mercy."

In light of these facts, it seems beyond dispute that the violence in Gujarat meets the definition of genocide offered in the UN Convention on Genocide:

> Article 2. In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.

Indeed, given the centrality of rape in the events that took place, usually rape followed by murder, we can say that the intent to destroy the group is enacted in all the ways the Convention specifies—with the exception of the removal of children to another group, since children were murdered here along with their parents.

Moreover, the evidence of long and deliberate construction of hatred undermines any claim that these events were just the acts of a mob that got out of control.

2. Abrogation of the Rule of Law. To most commentators on the events, the most disturbing feature was the complicity of officers of the law at all levels. Modi and other government officials actively egged on the violence. The prime minister failed to show concern for the violation of the fundamental rights of Indian citizens. The national BJP government has made no effort to conduct a serious investigation into the crimes and has repeatedly refused calls for Modi's resignation.

In all these ways, Gujarat signals a fundamental breakdown of the rule of law. This was not simply mob violence but rather the infiltration and cooption of the law itself by the engines of hate and fear. The very existence and meaning of India's pluralistic democracy are deeply compromised by these events, which show that some citizens can count on the law's coming to their aid and others cannot. The Concerned Citizens' Tribunal presented a series of recommendations for trial and punishment of the main offenders, but there is no sign that these recommendations are being taken seriously by law enforcement officials.

Sarkar argues compellingly that these events highlight a difficulty for some fashionable versions of the politics of difference. Insofar as proponents of identity politics neglect the importance of traditional notions of citizenship, equality, and rights, they undercut "the only ground on which cultural difference can be sustained and asserted. We reject this truth . . . as an old and therefore unusable brand in the marketplace of ideas at our peril. The only opposite term to equal citizenship rights is unequal citizenship or the denial of citizenship. That is precisely what happened in Gujarat."

3. No Genuine Security Issue. Repeatedly, Vajpayee and other Hindu fundamentalist leaders tried to link the Muslims who allegedly attacked the train to both Pakistan and international terrorism. The current world atmosphere, especially the indiscriminate use of the terrorism card by the United States, has made it easier for them to get away with this. There is no evidence that either of these links has any reality. Muslims in India are a highly diverse group, but it is obvious that one thing they have in common is that they did not go to Pakistan. One cannot always infer choice from such facts, but one certainly cannot infer Pakistani sympathies either, far less complicity in alleged Pakistani plots against India. As the political philosopher Pratap Mehta has written, Indian Muslims are perhaps the largest Muslim community in the world that has never produced either a massive fundamentalist movement or a rush to join terrorists. Moreover, because Indian Muslims are mostly poor (in good part because of the persistent discrimination they have encountered), the at-

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tempt to portray them as a dangerous social force sowing dissent from within is unrealistic—even though in Gujarat such threats derive more surface credibility from the relative prosperity of Gujarati Muslims.

As for al-Qaeda, all one can say is that Vajpayee, like others we know, is only too ready to use this name as a scare tactic, in the absence of any evidence at all making the connection. We don't even know how the train was set on fire, much less who did it, so a fortiori we don't know if any of these people is connected to al-Qaeda. Given that the background to the train incident involved violence against Muslims on the platform at Godhra station, retaliation is a far more likely motive, if indeed the perpetrators of the torching were Muslims.

In short, the Indian nation faces no serious security threat from within that might have explained, even if it would not have justified, restrictive measures against Muslims and a climate of fear and hostility toward them. Insofar as India does face a serious security threat from Pakistan, the Gujarat victims are far more distant from the Muslims of Pakistan than most Japanese Americans were from the Japanese regime at the time of World War II. For one thing,, fifty-five years had passed since Partition; for another, the vast majority of Indian Muslims are not immigrants at all, but native-born Indians.

4. Massive Funding from U.S. Sources. A very important issue to ponder, and one that Americans may be able to alter, is funding. The Indian community in America has strong ties to Hindu nationalism. The VHP is highly organized here and is often regarded as the legitimate voice of the Indian community—as, for example, when it succeeded in stopping the screening of a film by Anand Patwardhan at the Museum of Natural History in New York on the grounds that its (socially radical) portrayal of caste tensions was offensive to Hindu sensibilities. Americans should be very clear about what this organization is and what it supports. It does not speak for India or for Hinduism; it speaks for the politics of Hindu nationalism, including its hate politics. Highly significant in the funding of the Gujarat violence were private donations organized through the American VHP and various charities that it has organized. The connection of these charities to the funding of hatred has now been amply documented in a report entitled *The Foreign Exchange of Hate: IDRF and the American Funding of Hindutva* that may be accessed online (IDRF being the acronym of the India Development and Relief Fund, the chief charity in question).

What this report shows (and other sources have confirmed) is that almost no money from this allegedly charitable organization goes to fund welfare or general poverty relief. Funds are targeted, first, at organizations for Hindus only. Second, the money is largely used for cultural activities that are highly inflammatory in character, in particular for the camps of the Bajrang Dal, where young Hindu boys are taught the ideology of Hindutva and where hatred and fear of Muslims are openly advocated.

Some Americans of Indian descent probably give to this charity in ignorance, truly believing that it funds general charitable activities. (One cannot get a tax deduction for contributing directly to a charity in India, so one must seek out these U.S. conduits.) Some, and these days the larger number, give to the IDRF because they know exactly what the money will be used for, and they think these purposes are good. Widespread opposition to congressional investigation of the funding issue shows fear that the links may be cut. The American VHP has also taken the lead in the recent attacks on historian Romila Thapar.

5. The Importance of the Truth. It is sometimes still fashionable to denigrate the pursuit of historical truth. No doubt postmodernism has alerted us to important questions about any attempt to construct a historical narrative. And yet the events of Gujarat vividly demonstrate the great importance of historical truth for any state that thinks of itself as democratic and committed to human freedom and equality. Both the general attempt to rewrite history in textbooks for the young and the very specific attempts (through legal delay, failure to investigate, and false reporting) to conceal the truth about Gujarat, substituting a narrative of terrorism foiled, show us exactly why the search for truth is so im-

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portant for us all. The attempts of members of the Indian American community to conceal the nature of their "charitable" activities tell the same tale.

In all these cases, however difficult it is to give a philosophically adequate account of historical truth, we can all see what the truth is not, and we can also see that the efforts of the tribunal to document what happened have a profound political importance, the same importance history has in George Orwell's *1984*, as an essential bulwark against tyranny. As Sarkar eloquently writes:

> There can be no political implication, no resource for struggle, if we deny the truth claims of these histories of sadism, if we . . . denigrate the search for true facts as mere positivism, a spurious scientism. For the life and death of our political agenda depend on holding on to the truth claim, to that difference with VHP histories, to that absolute opposition to their proclamation that they will make and unmake facts and histories according to the dictates of conviction . . .

6. The Silence of the World. The events of Gujarat have led to few large-scale public statements. The government of Finland did protest at the time—and was denounced by the Vajpayee government for foreign interference. Our State Department has included an accurate summary of the events in its 2002 International Religious Freedom Report, but the U.S. government has not foregrounded these events in its foreign policy; indeed I cannot locate any major statement made by a member of the current administration condemning the attacks. The Democrats have also been silent—with the exception of former president Bill Clinton, who in March 2003 issued a long statement for a conference sponsored by the journal *India Today*, in which he condemned the atrocities and criticized the national government for its failure to stand against the politics of hate: "To identify and categorize people based on faith will keep India from becoming the right kind of giant in the 21st century." He added that efforts to rebuild Gujarat after the 2000 earthquake, for which he helped raise funds, showed him that Hindus and Muslims can work together in the state.

Clinton always took a particular interest in India, and he knows a great deal about it, so this does not surprise me. What does surprise me is the silence of everyone else. Here is a clear case for heavy diplomatic pressure, and possibly economic sanctions, given the complicity of the government in the terrible events. But nothing like this has even been suggested.

As for the academy, there is naturally a lot of writing about Gujarat by academics *in* India; some were members of the Concerned Citizens' Tribunal, along with judges and lawyers, thus continuing India's honorable tradition of continuity between scholarship and social activism. Americans who work *on* India have no doubt contributed to this literature, although not very prominently so far as I can see. But I know of no organized efforts by American academics to express moral outrage: for example, publishing petitions or advertisements condemning the carnage or organizing movements to seek economic sanctions against the state of Gujarat, or even divestiture of university stockholdings in businesses that operate heavily in the state. Whether these actions would be correct is unclear to me; but we should be asking what actions are correct and debating the alternatives.

At the very least, concerned citizens of the world, academic and nonacademic, should be educating themselves about the situation and expressing their views. One way of doing so, for those of us who have a close relationship with the Indian American community in the United States, is to work on producing the facts for, and trying to persuade, those in that community who are ready to listen. For those who don't have this sort of relationship, there are many other things that can be done: teach about these events; invite speakers who talk about them to organizations both academic and nonacademic; write about them in the course of whatever writing you do on human rights issues. This educational effort needs to include getting to know the work of important scholars in India, such as Thapar and Sarkar, who are not household names in America, but who have put themselves on the line for justice.

And there are actions that we can all take as citizens (actions that many more U.S. citi-

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zens take with regard to the Middle East). We can write to our representatives in Congress to urge the full investigation of the alleged charities that fund hatred. We can write expressing overall concern with a U.S. policy that is basically silent about this genocide. In short, we can try to promote knowledge, debate, and the circulation of the truth, knowing that silence and indifference are the allies of tyranny. ●

MARTHA C. NUSSBAUM is Ernst Freund Distinguished Service Professor of Law and Ethics at the University of Chicago, appointed in the Philosophy Department, Law School, and Divinity School. She is an Affiliate of the Committee on Southern Asian Studies and a Board member of the Human Rights Program.

Most of the information in this article can be found in the "Report of the Concerned Citizens' Tribunal," which is online at www.sabrang.com. See also Siddarth Varadajan, ed., *Gujarat: The Making of a Tragedy* (Penguin Books, 2002), an excellent collection of documents and articles to which I am also indebted. On the funding issue, see "The Foreign Exchange of Hate: IDRF and the American Funding of Hindutva," also at www.sabrang.com. Tanika Sarkar's statements are cited from her article "Semiotics of Terror," in *Economic and Political Weekly*, July 13, 2002; Pratap Mehta's from his article "Facing Intolerance," in the *Hindu*, December 20, 2002. I am grateful to Zoya Hasan for comments and discussion.

An Indian 'War on Terrorism' Against Pakistan?

Kanti Bajpai

SINCE THE EVENTS of September 11, 2001, many in India have argued that if the United States can justify its wars in Afghanistan and Iraq in the name of combating terrorism, destroying weapons of mass destruction, and changing regimes, then India is justified in attacking Pakistan. Indian external affairs minister Yashwant Sinha is reported to have said, "India has a much better case to go for preemptive action" against Pakistan than the United States had in Iraq. The massacre of more than twenty Hindu men, women, and children in Nadimarg, Kashmir, in late March 2003, renewed calls for sterner action against Pakistan. And yet, Indian anger notwithstanding, military action against Pakistan would be both ineffective and dangerous.

Ever since the Kargil War of 1999, influential Indian strategists have argued that India should be prepared to fight "limited war under nuclear conditions," that is, military operations of a limited conventional nature. This is the only way, they believe, to respond to Pakistan's strategy of sub-conventional warfare—terrorism, and, as in 1999, incursions across the line of control in Kashmir. Pakistan can only be dissuaded from continuing its sub-conventional warfare, in this view, by the threat of military punishment. This new Indian thinking challenges the Pakistani conviction that its nuclear weapons protect it from Indian retaliation.

There are probably two reasons for the new Indian thinking on limited war. The first is the belief that India, with its bigger nuclear forces, has "escalation dominance" and can up the ante at every level of violence. To the extent that India has the whip hand, Pakistan's threat to use nuclear weapons against a punitive Indian strike would be neutralized. Islamabad would be dissuaded from resorting to nuclear weapons by the fear of massive retaliation.

The second reason is a calculation that the nuclear powers, especially the United States, would not allow either country, but Pakistan above all, to use nuclear weapons. Indian thinking on the subject is not available in cold print but quite likely rests on the following kinds of arguments. First, the nuclear powers are determined to preserve the nuclear taboo and in particular to stop anyone outside the nuclear five (the United States, United Kingdom,

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France, Russia, and China) from using nuclear weapons. Second, a nuclear war between India and Pakistan could draw in other nuclear-weapon states. Imagine that Pakistan appeals to China for help after using nuclear weapons against an Indian conventional attack. Faced with the prospect of Chinese involvement, India turns to Russia. The United States urges both China and Russia to stay out of the fight but finds that Beijing and Moscow are unable to stand on the sidelines. Surely Washington must do everything it can to avoid such a situation, including stopping Pakistan from starting a nuclear crisis in the first place. Third, American troops on the ground in Pakistan since September 11 would be trapped in a nuclear war between India and Pakistan. Clearly, this would be unacceptable to Washington. Finally, in regard to Pakistan, the United States and other nuclear powers do not want a Muslim state using nuclear weapons at a time when other Muslim countries are in the hunt for weapons of mass destruction.

How persuasive are these Indian suppositions? Does India have escalation dominance, and will this stop Pakistan from using nuclear weapons against an Indian conventional strike? First of all, it is unclear that India can raise the stakes at every level of violence. The most important consideration here is whether India has superiority at the nuclear level—this is essential if one is to play the game of escalation dominance. Given the secrecy of the two nuclear programs, it is hard to say. Some reports suggest that Pakistan has the nuclear lead in terms of deliverable weapons (even though India has more fissile material). Whatever the truth of these reports, Indian nuclear superiority is not an established fact. Furthermore, even if India has nuclear superiority, the logic of escalation dominance may be invalid—Pakistan may not be deterred from raising the level of violence. Everything depends on how Pakistan perceives Indian military goals once the fighting begins. If it concludes that Indian objectives go beyond mere punishment, it might well feel that it has to use nuclear weapons, that it is better to go down fighting than to surrender or be conquered.

Nor can we count on the nuclear powers' restraining Pakistan. Faced with the possibility of nuclear war in South Asia, they might choose to wash their hands of both India and Pakistan and bend their energies to avoid being dragged into the conflict. Even if this is not the case and they do exert themselves on Pakistan, they may not have much influence in a fast-deteriorating military situation. A country, and a government, that thinks it is on the verge of dismemberment and defeat is not likely to be swayed by threats from the international community. After all, the ultimate threat from the nuclear powers would be to do to Pakistan what India was in the process of doing anyway, namely, punishing it militarily. One could argue that international pressure at such a crucial moment would only deepen Pakistan's sense of desperation and push it further toward the suicidal brink.

Leaving aside the contentious matter of escalation dominance and the role of the nuclear powers, there is the crucial question of whether or not any kind of limited war could be effective in reducing the terrorist threat and Pakistan's support of it. A set of thought experiments will show that none of India's military options is very good. There are, roughly, seven options: fomenting terrorism in Pakistan; hot pursuit of terrorists; special- forces attacks against terrorist camps; air and artillery strikes against terrorist facilities; conquering and holding a slice of Pakistani territory; a naval blockade or bombardment of Pakistani ports; and a serious military push into Pakistani territory. This list is not exhaustive. The Indian air force, as also the Indian navy, could, in addition, mount strikes against other Pakistani targets—dams, cities, and military targets. However, these are even more dangerous and immoral ventures, and most of my critique of the lesser options will apply even more acutely to them.

Let's look at each of the options. First, some strategists argue that India should do to Pakistan what Pakistan has been doing to it for the past fifteen years: it should encourage internal dissent and violence. This sounds like an attractive option at a purely military-strategic level, but the problem with it is twofold. For one thing, going by past experience, Pakistan is not likely to be stopped from interfer-

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ing in its neighbors' affairs by its own internal instabilities. Ethno-religious violence in Pakistan has been ferocious since at least the 1980s, and no province and city has been left unscathed. But this did not stop Islamabad from mounting anti-Indian rebellions in both Punjab and Kashmir in the 1980s and 1990s. Nor did it stop Pakistan from prosecuting a civil war in Afghanistan and from ousting the Soviet forces. Is there any reason to believe that Pakistani leaders today are more sensitive to internal violence than they were in the past? Ironically, the recent American intervention in Afghanistan has freed Pakistani resources for other theaters, including Kashmir, even as Islamabad deals with domestic disturbances.

Second, and more important, in contemplating the destabilization of Pakistan, India must consider whether such actions are compatible with its public and long-standing complaint that Pakistan is a terrorist state. Indian complaints will carry little moral weight if India itself supports terrorism. Destabilizing Pakistan is not just a moral issue; it is also an issue of statecraft. In the global war against terrorism, India would be part of the problem rather than part of the solution. It could become the object of international sanctions, whereas it has profited—and could profit further—if those sanctions were directed against Pakistan. In short, India would join Pakistan as a terrorist state. This would be a moral and strategic catastrophe for liberal democratic India.

What about the various military actions to which India could resort? These include hot pursuit, special-forces raids, and air and artillery strikes. All these would be directed primarily at destroying terrorist facilities in the Pakistani side of Kashmir, thereby reducing the incidence of terrorism. These options at least have the advantage of being morally justifiable because they will not target innocent civilians. Their military effectiveness, however, is questionable. Hot pursuit strikes would involve Indian troops' crossing the line of control in chase of terrorists. But these attacks probably would not achieve a great deal. Indian troops would probably kill some terrorists and temporarily destroy training and base facilities. The supply of terrorists is large enough, however, and Pakistan could rebuild and relocate the affected facilities fast enough, so that India would have to repeat the attacks, perhaps deeper into Pakistani-held territory, thus making its forces more vulnerable to counter attacks. Indian units that cross the line would also run into Pakistani fire, and casualties might be heavy. India would then be faced with the choice of calling off the pursuit or escalating the engagement.

Most of these limits apply as well to raids by special forces, which also have their own difficulties. They depend, critically, on surprise, stealth, and speed. Indian special forces could attain all three, but we should be cautious. In the history of warfare, the number of special operations that have gone wrong may well outnumber the ones that have succeeded. The capture and destruction of Indian units caught on the Pakistani side would be a public relations disaster if not a serious military reverse. Moreover, and this is crucial in terms of effectiveness, one or two successes will do little to reduce the tempo of terrorism.

Air and artillery fire against the terrorist camps or even against Pakistani military units is another plausible option. The Indian air force and army could launch a series of strikes against terrorist camps and Pakistani military targets. The success of remote fire of this kind, either from the air or from ground artillery, depends on intelligence and accuracy of targeting. If Indian fire is inaccurate, it risks hitting innocent civilians, which would be both morally corrosive and diplomatically counterproductive. Satellite imagery, air reconnaissance, specialized radar, modern locating systems, and precision-guided munitions are just some of the requisites for a bombardment campaign against terrorist facilities and Pakistani military targets. It is unlikely that Indian forces have the requisite capabilities. In any case, the Pakistanis can camouflage, harden, and move these facilities and targets, thereby rendering the Indian campaign ineffective.

Finally, India could opt for a much more ambitious set of punitive actions against Pakistan: conquering and holding a slice of Pakistani territory, a naval blockade or action, and a serious military push into Pakistani Punjab

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and Sindh. Each of these, too, is fraught with risks. Grabbing and then holding a swath of territory on the Pakistani side of Kashmir or in Pakistan proper is by no means easy. In Kashmir, difficulties of terrain would make it a tough operation to mount and sustain. In Pakistan proper, the prospects are even more daunting, as the Pakistani forces are much stronger there, with considerable armor to back them. India too is strong, but the question is whether or not a potentially expensive operation would serve much purpose. The idea behind it would be, once again, to punish Pakistan for its support of terrorism and to offer it a trade—return of territory for the end of terrorism. What if Islamabad simply shrugs off the loss of territory even as it battles to get it back and continues the terrorism campaign? As we noted earlier, Pakistan is not afraid to fight on several fronts simultaneously. India would then have to decide whether to extend this kind of salami-slicing to other sectors or to expand the scale of operations.

One way of expanding the conflict is by a naval blockade or other naval actions along the Pakistani coast. India signaled the possibility of naval operations when it sent a flotilla of ships into the Arabian Sea in the summer of 2002. A naval campaign could involve a blockade of Karachi harbor, crippling Pakistan's trade, destruction of Pakistani military and merchant shipping, and destruction of the Gwadar naval base, which the Pakistanis are currently expanding (with Chinese help).

But a naval blockade raises a number of difficulties. For one thing, it could cause great suffering among Pakistani civilians. And it would antagonize many of Pakistan's trading partners, including the major economic and military powers important to India. A large Indian naval presence over a long period of time would get in the way of the American fleet that is positioned in the area as part of the campaign in Afghanistan. This would lead not only to diplomatic friction with the United States, but would also risk the two navies' physically blundering into one another. Finally, a flotilla would be vulnerable to Pakistani air and naval retaliation, in particular by its submarines and the deadly Exocet and Harpoon missiles with which its ships are equipped. An attack against Gwadar is much more attractive, but how would that work to stop Pakistan's terror campaign?

Instead of a naval campaign, India could do what it does best militarily—or at least what it is most predisposed to do—which is to go to war on land, in the plains of Punjab and Sindh. If anything would truly hurt Pakistan, it is the loss of territory in its heartland. The Indian army combined with the air force could invade Punjab or Sindh or both in the kind of "final conflict" that the Indian prime minister frighteningly referred to in one of his speeches during the crisis of 2002.

This is a military fantasy at best and a nightmare at worst. An invading Indian force would have to get past densely mined Pakistani forward positions. Next, there would be canals and ditches, and, most likely, more mines. Beyond these passive defenses, the Indian army would run into Pakistan's active defenses—its armor and regular infantry units. Contrary to what most Indians and even more foreigners imagine, India does not have a substantial lead in conventional forces on its western border. Indian forces are deployed along the northern border with China and cannot be reduced much further in that sector. Many Indian troops are deployed for internal security duties, particularly in Kashmir and the Northeast, and it would be stretching them dangerously to draw their numbers down significantly. The tide might turn in India's favor if the air force achieved a rapid and decisive victory in the skies. Few people, however, would predict that this could be achieved. In short, the Indian attack would be a very hard slog, and the war might just turn into a stalemate marked by mutual attrition. And that's the good news. The bad news is that if India succeeded in making a breakthrough, Pakistan might unleash its nuclear weapons at Indian troop formations or Indian cities in order to halt Pakistan's military collapse.

The general point that emerges from these thought experiments is that much may be ventured, at great risk, for very small gains. The costs of war would probably be much greater than the costs of the uneasy, flawed, and vio-

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lent peace that exists today. Some military ventures will gain India little in terms of stopping terrorism even if they succeed. Others could gain it a lot but have little chance of success. Yet others spell catastrophe.

In short, there are great dangers in applying the doctrines associated with the U.S. war on terrorism—retaliation and preemption—in South Asia. While there is no doubt that Pakistan does sponsor terrorism in India, the simple truth is that Pakistan is not as weak as Afghanistan or Iraq, and India is not as strong as the United States. Going after Pakistan militarily will either be ineffective or extremely dangerous. Whatever the United States can or can't, should or shouldn't, do, India's response to terrorism has to be different, and it is mere casuistry to claim that New Delhi should emulate Washington's methods. ●

KANTI BAJPAI is professor of international politics at Jawaharlal Nehru University, New Delhi.

Governing Brazil

New Challenges for the Left

José Eisenberg

FOR MORE THAN a century, the left has been engaged in an extensive debate on how to govern capitalist states when it reaches power through electoral processes. Although leftist revolutionaries don't have to confront this problem, reformers face a serious dilemma: how to sustain a leftist agenda of constructing social equality while, at the same time, creating the conditions for economic development and maintaining the stability of the capitalist system. Social democracy and the welfare state seemed to be a solution, but the levels of public spending required resulted in the worldwide fiscal crisis of the 1970s and the rebirth of right-wing classical liberalism. Since then, the reformist left has been unsuccessful in finding new alternatives. Electoral victories have become scarcer, and many have even argued that we are witnessing a decline of the left-right conflict, a positive movement that is taking us beyond the anachronistic political language we inherited from the nineteenth century.

I may be missing something, but I believe this is a false impression and that the ever-changing nature of the capitalist system has yet to render this language obsolete. Political events in different places around the world require us to reconsider the standard meanings of words such as *left* and *right*—but without stripping them of their core significance.

Brazil is one of these places. What is going on in contemporary Brazilian politics may shed light on what has happened to our political vocabulary in the past few decades and on the challenges the left faces in the near future. Even though no Brazilian presidential race ever received the kind of attention from the international media that the election of Luiz Inácio Lula da Silva received, it is not only the political facts that deserve a closer look. The election of a leftist leader in one of the biggest economies of the world has deeper meanings, particularly if one looks at the government's main policies over these first months.

The present combination of macroeconomic conservatism and social welfarism adopted by Lula and his government hardly constitutes a leftist agenda. Are we to jump to the conclusion, therefore, that they have abandoned the left in the name of pragmatism and *realpolitik*? Is Lula designing a traditional social democratic agenda, pushed to the right by the pressures of the financial community for fiscal and monetary conservatism? Neither of these seems an accurate description, especially when one places them in historical perspective.

In last year's presidential elections, Lula, the leader of the most important leftist politi-

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cal party in the country, the Workers' Party (PT), ran a campaign markedly different from those of his three previous presidential races. In 1989, after the end of the military dictatorship, Lula presented himself as a spokesman for the interests of the working class. Promising radical changes in the Brazilian social order, he reached the runoff with a good chance of winning it. Yet in the week before election day, his campaign crumbled. A scandal involving a daughter from a previous relationship, a major businessman kidnapped on the day of the election with the media showing the kidnappers with advertising material for Lula's campaign, and a sub par performance in the last television debate sealed his defeat. At the time, many on the left saw his defeat as a blessing; the PT was not prepared to run the country, its leaders had almost no administrative experience, and a victory would have resulted in an institutional crisis of unforeseeable proportions. Ironically, however, an institutional crisis developed around the presidency of his opponent, Fernando Collor de Melo, whose involvement in corruption resulted in an impeachment process in Congress and his eventual resignation from office.

In 1994, Lula's campaign against Fernando Henrique Cardoso was doomed from the start. Cardoso had been the finance minister during the tenure of Collor's replacement, Itamar Franco, who had organized a wide coalition to support the stabilization plan implemented by Cardoso. The *Plano Real*, as it was named, was successful in containing inflation, then Brazil's major economic concern. Although Lula started the campaign ahead in the opinion polls, Cardoso quickly caught up and won an easy first-round victory. Lula's criticism of the stabilization plan fell on deaf ears, as the population clearly saw the benefits of having low inflation rates after almost a decade of hyperinflation. In 1998, the scenario repeated itself. Cardoso, running for re-election, still used economic stability as his main campaign slogan, while Lula, once again, tried to no avail to criticize the government's economic policy.

By the time Cardoso reached the last year of his eight-year term, however, the political and economic scenes had changed significantly. After many years of stable prices, controlling inflation no longer seemed an issue; the country was living through a long-term stagnation and even recession, and the pressure throughout his second term was for governmental policies promoting economic growth. Cardoso was unable to implement such policies, however, mainly because his aggressive neoliberal privatization plan—which was wracked by corruption scandals and produced little financial returns to the state—had crippled the government's capacity to start a virtuous economic cycle. Unemployment rates soared, and the president's popularity fell.

Lula initially resisted the idea of running for a fourth time, but pressured by his party's leadership, accepted the mission. The conditions seemed riper than ever, and the PT was more prepared to provide him with the kind of political structure and campaign autonomy he had not enjoyed in his previous runs. The party controlled two major states in Brazil—Rio de Janeiro and Rio Grande do Sul—as well as the country's largest city, São Paulo, and had plenty of local and state-level politicians and militants ready to engage in an aggressive campaign. Lula and his campaign staff had a large degree of freedom to build alliances with parties to the center, something the PT had been reluctant to do previously. Meanwhile, Cardoso's candidate, the minister of health, José Serra, fearing the declining popularity of the president, tried to distance himself from Cardoso with harsh criticism of some of the president's policies. Lula started the campaign well ahead of the other candidates and never looked back.

Suddenly, a party born to fight for the interests of the working class in the midst of a military dictatorship, led by a rural trade union leader who had climbed Brazil's steep social ladder, found itself running a country with a stagnant economy, inflation slowly creeping back in, and an enormous public debt generated by Cardoso to sustain an overvalued currency. Above all, however, Lula had to fulfill vague promises of radical change made to the millions of Brazilians who set their hopes on him. Even though he spoke during his campaign about the core values of the left, such as social equality, at the center of his political

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agenda were more the traditional issues of economic recovery and growth. There was no questioning of the capitalist system per se, in part because the PT had decided to abandon the banner of socialism during the campaign, but also because the alliances that ensured Lula's victory included parties of the center, such as the Liberal Party (PL) of his vice president, José de Alencar, the owner of one of the greatest textile conglomerates in Brazil. Although everyone expected Lula's victory, few knew what to expect from his government. Cardoso and Lula organized a smooth transition, but no one was sure what concrete measures were being prepared for January 1, when Lula would make his inauguration speech.

History has funny ways of producing solutions to tough riddles, and in a matter of weeks, Lula had taken on the role of leader of a nation in dire need of creative solutions that could not come in the short run. In his inauguration speech, he preached patience, serenity, and above all, solidarity with those in Brazil who were still not able to have food three times a day. He announced a nationwide campaign to eradicate hunger through a social program known as *Fome Zero* (Zero Hunger). He also surprised his listeners by proposing an austere economic policy that would keep interest rates at levels as high as needed to control the growing inflation.

Months later, many are still surprised, in Brazil and abroad, with Lula's stern monetary and fiscal policies and with the populist, old-style welfarism of his campaign against hunger. As an article in the *Guardian* asked earlier this year, how could a Republican president in the United States run large deficits and ignore the "voodoo" policies that defined his party's recent economic strategies, while a leftist president in Brazil could adopt a "right-wing" monetary policy and make agencies such as the World Bank and the International Monetary Fund happy? The markets reacted well to Lula's approach to the macroeconomic issues—he even appointed the former CEO of FleetBoston, a member of Cardoso's social-democratic party (PSDB), to be the head of the Central Bank, and economic indicators such as the exchange rate and the value of Brazilian C-Bonds in the foreign markets have reacted accordingly. But those who expected Lula's election to translate immediately into a move to the left, adopting policies such as state control over the exchange rate and a more independent posture vis-à-vis the international financial system, have been disappointed. Opposition within his own party has been vocal, although isolated, and a few political allies from other parties have also complained.

The effort to eradicate hunger, on the other hand, has been paralyzed by technical and administrative quarrels about how it should be implemented—issues such as giving out coupons, magnetic cards, or cash—and the creation of accountability mechanisms for controlling how the poor use the benefits they receive. Lula's cabinet, furthermore, has been busy for the most part seeking ways to make the cuts required by the new fiscal policy, which predicts increases of this year's budget surplus even steeper than those required by the IMF.

The main novelty of the first months of Lula's government has been the installation of the *Conselho de Desenvolvimento Econômico e Social* (Council for Economic and Social Development). A consultative body composed of representatives of civil society and linked directly to the presidency, it was created to discuss the so-called structural reforms that are required to put the Brazilian economy back on track. The composition of the council—approximately 50 percent businesspeople, 15 percent trade unionists, and the remainder chiefly famous personalities of Brazilian philanthropic and other civil society associations—has been criticized by people suspicious that it will become a populist instrument that Lula could use to circumvent Congress and its institutionalized mechanisms of political representation. Instead, the Council has become an important instrument for democratizing the debate over policy decisions.

Social Security reform, fiscal reform, labor law reforms, and political reform, in this order, are at the top of Lula's agenda for the Council and Congress this year. The government has been tentative about producing proposals that can be discussed in Congress, however, preaching the need to open up the discussion—a need that stands in some tension

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with the urgency of getting proposals through Congress in order to give the new government its own identity. It is also important to note that, even though Stanley Gacek in the Spring 2003 issue of *Dissent* ("New Hope for Brazil?") counts on the center-right PMDB to secure Lula a majority in Congress, such a scenario seems too optimistic. The alliance has yet to be firmly established. It would be more accurate to assume that Lula will only be able to produce majorities in Congress after extensive negotiation with other parties, including those in the opposition.

As usually happens with Brazilian presidents in the first months of their term, Lula's popularity has slightly declined, although it is still much higher than that of the last four presidents at the same point, and optimism about his government still prevails in public opinion. Criticism has come from all sides, but especially from people anxious for the changes promised during the campaign. Those who were in power until this election —and who suddenly find themselves in opposition—have yet to find a discourse suited to their new status. More often than not, their criticism of the government is reduced to attacking it for holding to Cardoso's policies, which they previously defended. From within, the more radical groups of Lula's party, after so many years practicing opposition to the federal government, have yet to find a way of making their criticism constructive for the government they now (presumably) support. They seem baffled by each move the president makes that seems to point to continuity rather than change.

Lula and the PT today are strikingly different from the Lula and PT of two decades ago, when the party was founded. Lula is older, and the youthful radicalism of his early days has given way to a realistic wisdom about politics in Brazil and the limits it imposes. The PT has also changed, loosening its links to the progressive wings of the Catholic church and the unions, and building solid support among a Brazilian middle class that has experienced decades of impoverishment. The "new PT" maintains links with its past, but it is now a mass party, organized in all states of the nation; it is pluralist and diverse; it runs many municipalities; and like any other political party in office, it is often subject to corruption investigations. Above all, it is now the carrier of a political agenda of moderate reforms: first, to put the Brazilian economy back on the track of economic growth and then, second, to enact social programs targeted at the poor and at income redistribution. Have Lula and the PT moved from leftist socialism to a center-left social democratic agenda? The political orientation of the PT has undoubtedly changed, in spite of the socialist overtones of all its important documents. The real question is whether this is a tactical move in order to reach power or a genuine move to the center.

Nothing has been more symbolic of this change than an event earlier this year in São Bernardo, a city in the industrial belt of São Paulo, where Lula began his union activities. The trade union movements in São Bernardo that gave birth to the PT in the early 1980s had affirmed their identity as unions that struggled for the workers' interests, thus differentiating themselves from the corporatist union tradition of an earlier Brazil. They fought the military regime in a wave of strikes spanning a ten year period from 1969-1979 and, as opposed to the so-called *pelegos*, never negotiated with the state for particular privileges, but struggled directly against their employers for concrete material gains. This time, when Lula returned to São Bernardo, for a speech at the site where some of the most impressive strike assemblies of the union movement took place, he told the workers to put their interests as workers on the back burner and to think about the problems of the nation as a whole. His message was, we all need to make sacrifices. The republican overtone of Lula's discourse represented an enormous swing away from the ideals that brought him into union work in the first place. Speaking from his new social position, and all the responsibilities it entails, he called on the workers to think about the public good, so that this opportunity for radical change might not be lost.

It is wrong to assume, therefore, that the "new PT," uprooted from its working-class social origins and from the political discourse of radical opposition, is no longer a leftist party. What has now been incorporated into the

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party's discourse is a republican and nationalist perspective. The policies adopted by Lula's government, and his agenda of moderate reforms, must be interpreted as a means to an end that, as Lula himself has acknowledged, probably will not be attainable during a four-year term.

Social democracy and its classic welfarist instruments have become synonymous with state patronage and fiscal irresponsibility, something the powers of the world economy will not tolerate nowadays. Statist models of economic intervention that convert public spending into economic activity and wealth distribution under a capitalist world order have lost much of their appeal. What Lula and the PT leadership are trying to do is implement policies that will create windows of opportunity for implementing a leftist agenda of social equality and radical redistribution. It is obvious that his present route, combining economic conservatism and social programs to combat hunger, cannot achieve that end. But can the end be reached without these steps?

Lula is at a crossroad of the debate on how reformist parties on the left should govern capitalist states, and we should not rush to conclusions on the basis of the first policies he adopts. He and his party are still seeking innovative ways of orienting policy toward the construction of social equality. What the present agenda has enabled Lula to do is bring social actors back to the political arena, and the public debate in Brazil has been enriched by the president's refusal to use the legitimacy acquired in the electoral process in order to short-circuit democratic institutions—as some people, comparing him to the Venezuelan president, Hugo Chavez, feared he would. Lula is dealing with the present moment of Brazilian politics as one of constructive dialogue to produce viable structural reforms, which can gain the approval of Congress as well as public opinion, so that, at a subsequent moment, a leftist agenda may be furthered.

Perhaps the only serious mistake so far has been that Lula's obsession with the future of Brazil has made him neglect the need to reinterpret the historical path of his party as the main opposition force over the last two decades. Many of his proposals for reform were part of the agenda of his opponents in the past, and he has yet to produce a consistent and self-critical analysis of his trajectory from a radical opposition on the left to a center-left government whose moderation is tactically necessary to any future move toward equality. Recently, this problem became explicit in the debate over Social Security reform, in which Lula developed a proposal with all the state governors that includes taxing the retired personnel of the public sector, a proposal against which his party had fought for years in Congress. If Lula fails to produce a clearer account of how he envisions the transition from his present agenda to a more radical one, he may experience many defections to the left of his coalition and a serious decline in his popularity.

Regardless of this lack of self-criticism at the present moment, however, there is definitely something new about Lula's strategy as a leftist president ruling a capitalist country. His government is neither on the left nor on the right. That does not mean, however, that he is at the center or developing a strategy beyond left and right. Lula knows that state policies cannot be transformed from Cardoso's neoliberalism to a more leftist approach in months, perhaps not even in a four-year term.

Patience and prudence are the words of the day in Brazil. Lula and his party have chosen democracy as an end in itself, to be practiced in governmental decision making in a constant dialogue with civil society. The problem is that democracy is a wager, and in the Brazilian case, where social inequality is so acute, the stakes

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are very high. But the returns are possibly even higher. The left in other countries of the world should be patient about passing judgment on the present policies of Lula's government. For the moment, we should assume that Lula's vision of the future of Brazil is governed by the values of the left. Whether this vision will become reality is a different and currently undecidable question. It is the beginning of a four-year, perhaps eight-year, journey in which many lessons will be learned before we can come to an evaluation of what Lula truly means. ●

José Eisenberg is professor of political science at the Instituto Universitário de Pesquisas do Rio de Janeiro (IUPERJ), in Brazil.

Understanding the Real Europe

Ulrich Beck

Imagine for a moment what would happen if the European Union applied for membership in the European Union. Its application would be flatly rejected. Why? Because the European Union doesn't live up to its own criteria of democracy, of Europeanness. As I have argued in these pages ("Democracy Beyond the Nation-State," Winter 1999) and elsewhere, this paradox goes right to the heart of what's wrong with the European Union. It isn't European enough.

Europe has a novel and empirical reality that all its critics fundamentally skip over. The reason anti-Europeans can't imagine a future for Europe is that they can't imagine its present. They are trapped in the contradictions of EU member nations' misunderstanding of themselves. And this false picture of Europe's present is blocking its future development.

I think I can demonstrate that the Eurosceptics have it exactly backward. The solution to the EU's problems is not more national realism. Rather, it is more Europe, more of the reality we are already experiencing—a cosmopolitan Europe. National categories of thought have created this impasse. National *irrealism* is Europe's problem. I make my case with three theses.

1. The European Union is not a Christian club.

As an empirical assertion this is so obvious it's a wonder how the debate got started. To call Europe a Christian club is to talk as if "Londistan" did not exist—*the* capital city of Islam outside the Islamic world. To say the European Union is a Christian club is to elevate unreality into a theory, the propositions of which are radically wrong. The easiest example is the now ubiquitous idea that Europe is a great community of common descent.

Turkey is, of course, the looming question that has brought this long-buried discourse of origins out of hiding. People who want to keep the Turks out have suddenly discovered that the roots of Europe lie in its Christian heritage. Those who share our continent, but do not share this Christian heritage, are seen as Europe's Other.

But this is to take the idea of an ethnic nation—that you have an identity you get from your parents, which can't be learned or unlearned—and apply it at the level of Europe. It conceives national and cultural identities as so inherently and mutually exclusive that you can't have two of them in the same logical space.

This is not only empirically wrong, it is totally at odds with the idea of Europe. If identities are mutually exclusive, Europe is an impossible project. The whole idea of the EU was based on the idea that one could be German and French or British and German at the same time.

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Dangerous traces of this exclusivist idea exist even in the seemingly benign idea of cultural "dialogue." The picture normally evoked by dialogue is of two separate entities, "Islam" and the "West," each occupying its own territory, who then need to reach out to the other in order to have contact. But in fact, these entities already interpenetrate each other. And what's more, their internal differences are as large as any they have with each other. Where can you find room in "Islam" and the "West" for all the second- and third-generation Muslim immigrants who are now an integral part of every country in Europe? Or for that matter for "Westernized" Muslims? Or for the Arab bourgeoisie? The Oriental Christians? The Israeli Arabs? The list of exceptions goes on until it swamps the rule. The closer we look at empirical reality, the clearer it becomes that the presumption of cultural homogeneity is really a denial of reality.

But it gets worse. Those who would re-invent the Christian West in order to build walls around Europe are turning the project of the European Enlightenment on its head. They are turning Europe back into a religion. Indeed, they are virtually turning it into a race. There could be nothing more anti-Western and anti-Enlightenment than that.

The true standards for "Europeanness" lie in the answer to the question, "What will make Europe *more* European?" And the answer is a more cosmopolitan Europe, where national identities become less and less exclusive and more and more inclusive. "Europeanness" means being able to combine in one existence things that only appear to be mutually exclusive in the small-mindedness of ethnic thinking. It is, of course, perfectly possible to be a Muslim and a democrat, just as one can be a socialist and a small businessperson—or, less pleasantly, a lover of the Bavarian landscape and the founder of an anti-foreigner organization.

The European conception of humanity doesn't contain any concrete definition of what it means to be human. It can't. It is of its essence that it be anti-essentialist. Strictly speaking, it is *a-human*, in the sense that one can be a-religious. The European idea of "man" was formed precisely by casting off all the naïve conceptions of what it meant to be human that had been imposed on it by religion and moralizing metaphysics.

It is no accident that Europeanness is mostly defined procedurally. Only a pragmatic-political definition can express this a-human essence. The flipside of this substantial emptiness is radical tolerance and radical openness. It is this that is the secret of Europe's success.

2. Cosmopolitan Europe is in the process of bidding farewell to postmodernity. In simplified form, we might say that we are passing from nationalistic Europe, through postmodern Europe, to cosmopolitan Europe.

Cosmopolitan Europe was consciously conceived and launched after the Second World War as the political antithesis to a nationalistic Europe and the physical and moral devastation that had emerged from it. It was in this spirit that Winston Churchill, standing amid the ruins of a destroyed continent in 1946, claimed, "If Europe were once united, …there would be no limit to the happiness, to the prosperity and the glory which its four hundred million people would enjoy." It was the charismatic statesmen of the Western democracies—and specifically the individuals and groups most identified with resistance to the Nazis—who reinvented Europe. And they consciously sought to reach past the mass graves and national cemeteries back into the European history of ideas.

Cosmopolitan Europe is thus a project born of resistance. It is important to remember what this means because two things come together in it. In the first place, resistance was not the automatic result of collapse. It was a reaction against the traumatic experience of European values being perverted. Cosmopolitan Europe was born in the bitter realization that the idea of what constitutes the "truly human" implies the subhuman. And that when "truly human" becomes the basis of a nation state, the result is a totalitarian regime that seeks to exclude, to separate out, to remodel, or to annihilate all people who can't or don't want to fit its ideal.

This brings us to the second point: if we no longer base ourselves on some transcendent human substance that needs to be saved, then what is it we are trying to nurture and preserve? If we are now dealing with de-centered quasi-

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subjects of which no one can definitively say what they are or what they ought to want to be, then what is the inviolate essence our institutions should be set up to protect? On what grounds can we guarantee that it won't be hauled off, tortured, and killed? The resistance that built Europe was motivated by clear ideas of inviolable human dignity, and of the moral duty to relieve the suffering of others. The basis of common humanity was the feeling of sympathy—a structurally empty feeling that draws its content from outside. These cosmopolitan ideals then became the foundations of the postwar European project.

Cosmopolitan Europe was founded as something that struggles morally, politically, historically, and economically for reconciliation. It was intended as a decisive break with all previous political history, and it accomplished it. With it, 1,500 years of intra-European warfare came definitively to a close. This ideal of reconciliation was not so much preached idealistically as practiced materialistically. The first step toward the "limitless happiness" that Churchill foresaw was a limitless market. Reconciliation was accomplished by being encoded into institutions, through the creation of profane interdependence in the economy, in politics, in security matters, in science, and in culture. Cosmopolitanism was created consciously, but it was created first as a reality, not as a theory.

If we want to excavate the original consciousness of cosmopolitanism that lies at the basis of the European project, it is the collective memory of the holocaust that provides our clearest archive—as Daniel Levy and Natan Sznaider argue in *Memory Unbound: The Holocaust and the Formation of Cosmopolitan Memory.** The founding set of documents of European cosmopolitanism, written when the war was still warm, as it were, were those of the Nuremberg Trials. Here we can see clearly how a cosmopolitan institutional logic was the first thing the builders of Europe reached for in trying to make a break with the past.

*Published in Germany as *Erinnerung im globalen Zeitalter: Der Holocaust* (Suhrkamp Verlag, Frankfurt a.M.,2001).

The Nuremberg court created both legal categories and a trial procedure that went far beyond the sovereignty of the nation state. It did so for practical reasons. It was the only way to capture in legal concepts and court procedures the historical monstrosity that was the systematic and state-organized extermination of the Jews.

Article 6 of the *Charter of the International Military Tribunal* delineates three categories of crime: crimes against peace, war crimes, and crimes against humanity. It was in terms of these new categories that Nazi crimes were judged and Nazi criminals tried and sentenced. Crimes against peace and war crimes both still presuppose the laws of a nation-state system of which they are violations. The concept of crimes against humanity, on the other hand, suspends the nation-state presumption. It is the embodiment of the cosmopolitan worldview in legal form. It was in many ways ahead of its time. The lawyers and judges who participated in the Nuremberg Tribunal were ultimately unable to come to grips with this new category. But of the three, it is this category that has endured in the European imagination. Today, even when we speak of "war criminals," what we really mean, as if it were now obvious, is people who have committed "crimes against humanity."

What was being introduced here was not a new law or a even a new legal principle but rather a new legal logic that broke with the previous nation-state logic of international law. Here is the definition in Article 6c:

> "*Crimes against humanity*: namely, murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of domestic law of the country where perpetrated.

The first key formulation is "before and during the war"—This is what distinguishes crimes against humanity from war crimes: there may be no war. And the second is that such crimes exist "whether or not in violation of domestic law of the country where perpetrated."

These enormous breaks with nationally

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based legal concepts were necessary because the persecution of the Jews was legal according to the laws of Nazi Germany and happened before the war took place. But taken together they change everything. They posit an individual responsibility for all perpetrators that is based outside the national legal context, in the community of nations. What had been crimes against the state now became crimes against humanity. So if the state is a criminal one, the individual who serves it must still reckon with being charged and sentenced for his or her deeds before an international court of law.

Finally, the phrase "any civilian population" suspends the principle of citizenship and replaces it with the principle of cosmopolitan responsibility. This cosmopolitan legal principle is designed to protect the civilian population not from the violence of other hostile states (which is the province of "war crimes") but from violence committed by states against their own citizens—or more important, against its noncitizens, against people deemed outside its legal boundaries while existing inside its borders.

This is not only far-reaching and provocative. It is a complete reversal of legal principles. It negates what had previously been the ultimate legal legitimation, the national legal code. It suspends that code. Cosmopolitan law is forced to break national law in order to come into force.

But now an interesting question arises that is much harder to answer than it seems at first sight. Who are crimes against humanity committed against? Legally speaking, were these crimes against the Jews only? If they were committed against humanity, as the name implies, does that mean everybody? Including the perpetrators?

There were those who argued at the time of Nuremberg that the idea of crimes against humanity was a legal nullity because humanity is an empty concept. That objection should have more force today than it did at the time. If cosmopolitan Europe is founded in opposition to all substantial ideas of what constitutes the truly human, then what are we defending under the banner of "human rights"?

It is at this point that cosmopolitan Europe generates a genuinely European inner contradiction, legally, morally, and politically. The traditions from which colonial, nationalist, and genocidal horror originated were clearly European. But so were the new legal standards against which these acts were condemned and tried in the spotlight of world publicity. At this formative moment in its history, Europe mobilized its traditions to produce something historically new. It took the idea of recognition of the humanity of the Other and made it the foundation of an historically new counter-logic. It specifically designed this logic to counteract the ethnic perversion of the European tradition to which the nation-based form of European modernity had just shown itself so horribly liable. It was an attempt to distill a European antidote to Europe.

Understood in this sense, the memory of the Holocaust is not just a monument to Europe's sense of the tragic. It is a memorial specifically to the European barbarism that was made possible by the marriage of modernity and the nation-state. It is a mass grave upon which the new Europe made an oath and chose a different path. Europe's collective memory of the Holocaust provides the basis of the EU. It is a warning sign that when modernity develops exclusively in the grooves of the nation-state, it builds the potential for a moral, political, economic, and technological catastrophe without limit, without mercy, and without even any consideration for its own survival.

In its elevation of pessimism to permanent despair, postmodernity joins hands with nationalistic Europe. Both deny the possibility of struggling against the horror of European history by radicalizing the idea of Europe. And both ignore the attempt to make Europe more European by making it more cosmopolitan. In this sense, present-day European pessimism reverses the old rule: it remembers the past in order to forget the present. And I believe that Jürgen Habermas is completely correct in his argument that there is a deep continuity between European pessimism and postmodernity. Both have in common a critique of modernity, an antimodernity, that offers no alternative but the past.

By contrast, cosmopolitan Europe is the European tradition's institutionalized internal

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critique. This process is not complete; it cannot be completed. Indeed, the sequence of enlightenment, postmodernity, and cosmopolitan modernity represents its beginning stages.

3. National categories of thought make the thought of Europe impossible.

The national point of view sees two ways and two ways only of reading contemporary European politics and integration. It sees it either as federalism, leading to a federal super-state, or as inter-governmentalism, leading to a federation of states. Both models are empirically inadequate. They fail to grasp essential things both about present-day Europe and about the nations that make it up. But they are also, in a deep-structural sense, anti-European. They deny the goal most worth attaining: a Europe of diversity, a Europe that helps diversity to flourish.

This is obvious when it comes to the idea of a federation of states that are seen as defending their sovereignty against the expansion of European power. From that perspective, European integration is a kind of European self-colonization. But it's just as true in the conception of a federal super state. That is how Europe looks when it is filtered through the exclusive categories of national thought, which can only understand it in one way: as a huge ethnocultural nation-state. This makes no sense, as its opponents point out. Such a nation is improbable, unwanted and un-European. But rather than faulting their conception, they fault reality. It never occurs to them that perhaps Europe isn't properly conceived of as a nation-state.

Both the federation of states and the federal super-state describe the same zero-sum game from different angles. Either there is one single state of Europe (federalism), in which case there are no national member states; or else the national member states remain Europe's rulers, in which case there is no Europe (inter-governmentalism). Within this framework of thought, whatever Europe gains, the individual nations lose. And this is true whether one is for a given option or against it.

This is what it means to say that national categories of thought make the thought of Europe impossible. Caught up in the false alternatives of the national viewpoint, we are given the choice between no Europe—or no Europe! The same two sides of one dead-end are as prominent as they've ever been in the current debate about the Constitution.

Methodological nationalism denies the empirical reality of Europe, which is that it is already a unity of diversity. And it misses that this is already also true of the nations that make it up.

Europe is inconceivable on the basis of national homogeneity. But European nations themselves no longer have this homogeneity either. People who want to preserve the old nation-states have first to pretend that those old states still exist, that they are still national containers from which others are excluded. They pretend this kind of France still exists, and this kind of Germany, and this kind of Britain. But they don't. All that now exists is the new France, the new Germany, and the new Britain: no longer nation-states but transnational states that have been cosmopolitanized from within.

The same is true of a cosmopolitan Europe. It is not only practically but logically impossible for it to be the replacement of many small nations with one large nation. It can only be conceived of as a cosmopolitan unity. Otherwise it wouldn't be Europe. But it can become a transnational state, a more defined and complex variant of what its component nations are already becoming.

Just as the Peace of Westphalia ended the religious wars by separating state from religion, we might consider it the ultimate goal of the European project to separate state and nation. Cosmopolitanism does not mean an abolition of nation, any more than Westphalia meant an abolition of religion. Rather, it means the constitutional enshrinement of the principle of national and cultural and ethnic and religious tolerance.

Many people consider the Peace of Westphalia the foundation of the modern European state system. If that is true, then the principle of tolerance was Europe's founding principle, the basis of its unwritten constitution. And on this argument, the essence of the postwar European project has been to deepen this principle of tolerance and to extend it. The

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a-religious state did not abolish religion. Rather, it allowed it to flourish. It allowed there to be more than one; it allowed true religious diversity. And the same is true of the a-national state. The goal is not to abolish national identities, but to save them from their own perversion, just as Westphalia saved religion from its perversion into religious war.

The concept of a cosmopolitan Europe opens our eyes to what has already long been here, which now needs to be affirmed and radicalized against the narrow-minded tendencies of the national viewpoint. A logic of inclusive oppositions is the only way to finally attain a Europe of national diversity. The concept of the a-national, cosmopolitan state both mirrors the reality of Europe and furthers the realization of its norms.

The legal realities of the EU already express this new kind of both/and reality that is gradually replacing the old either/or of national homogeneity. National and European legal and political cultures have co-existed for decades and are continuing to evolve together. They have merged into a European legal culture without abolishing national political cultures. They present a domain of continuous overlap that expresses political and social reality. The problem is that our ideas of the nation-state have failed to keep up with this reality.

The creation of interdependencies in every field of politics—the politics of mutual imbrication that makes Europeanization such a ubiquitous feature of our lives—is not a one-off form of cooperation that ultimately leaves the nation-states involved untouched. Rather, Europeanization seizes and transforms national sovereignty in the core of its being. This is where the intergovernmental perspective fails to grasp reality. Nation-states have already turned into transnational states, not only socially, but administratively, in the heart of their raison d'état. Europe has already changed from a nation-state system into a transnational state system. The point is to make it a better one, in pragmatic and practical terms.

THE QUESTION has often been asked, if the nations of Europe are so discontented, why is it that they so rarely say no to Europe? And the answer is because they follow their own national interests. But without intending it, each following its own interests pulls all of them further and further into the same cooperative system. Each nation limits its right to go off on its own because it expects the others to combine together—and if they do not, it will be disadvantaged. When repeated over time, these expectations of each other's expectations create in each country a new national core. Each nation now has the expectations of all the others encoded within it.

This is how European interests emerge as a nation's own interests. This is how the national zero-sum game can be gradually replaced by a European plus-sum game. And this is how national interests become Europeanized. They become reflexive national interests by following repeated joint strategies of self-limitation. And they follow these strategies because they work. So it is not only the social fabric that has become thoroughly cosmopolitanized. It is even true of the pure national interests themselves. Nations don't follow cosmopolitan realism out of altruism, but rather out of egoism, out of realism.

The decline of the nation-state is really a decline of the national content of the state and an opportunity to create a cosmopolitan state system that is better able to deal with the problems that all nations face in the world today. Economic globalization, transnational terrorism, global warming: the litany is familiar and daunting. There is a host of problems that are clearly beyond the power of the old order of nation-states to cope. The answer to global

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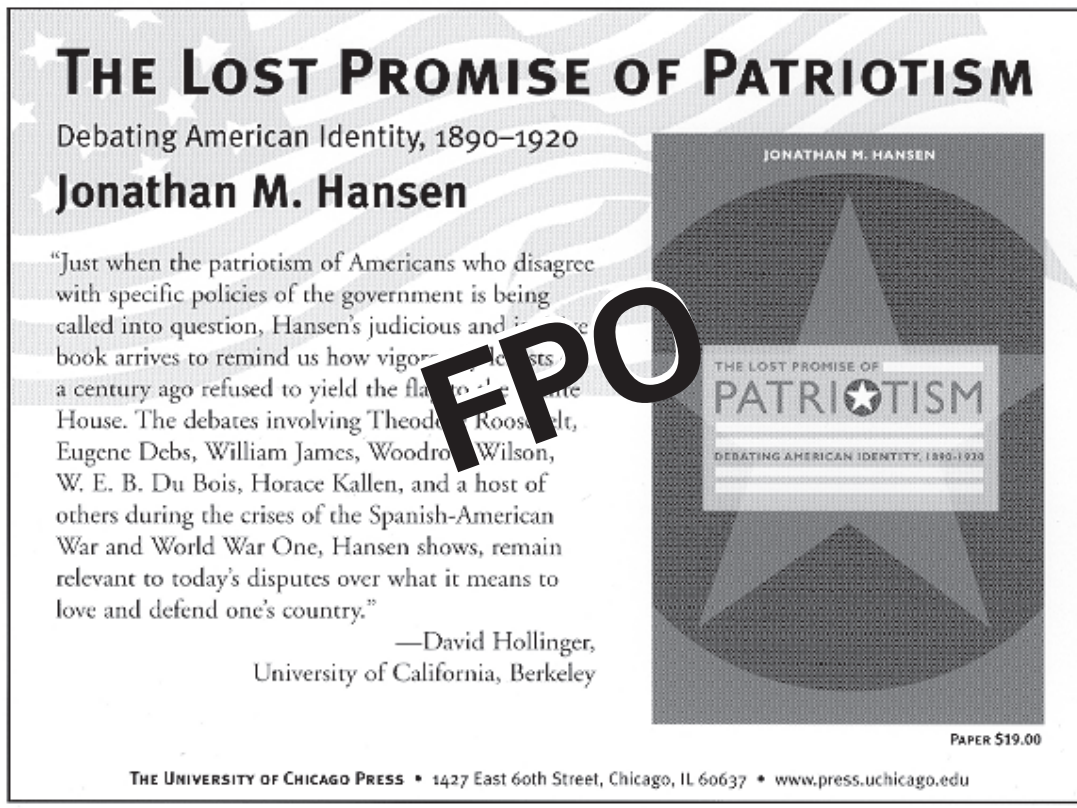
problems that are gathering ominously all around and that refuse to yield to nation-state solutions is for politics to take a quantum leap from the nation-state system to the cosmopolitan state system. Politics needs to regain credibility in order to craft real solutions.

More than anywhere else in the world, Europe shows that this step is possible. Europe teaches the modern world that the political evolution of states and state systems is by no means at an end. National *realpolitik* is becoming unreal, not only in Europe, but throughout the world. It is turning into a lose-lose game. Europeanization means creating a new politics. It means entering as a player into the metapower game, into the struggle to form the rules of a new global order. The catchphrase for the future might be, Move over America—Europe is back! ●

Translated from the German by Michael Pollak

Ulrich Beck is professor of sociology at the University of Munich and the London School of Economics and Political Science. His latest book is *Conversation with Ulrich Beck—An Introduction to his Work* (forthcoming, Polity Press, 2003).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Cakewalk: Getting it Wrong

U.S. Military Might and Myths

Fred Smoler

On February 13, 2002, Defense Policy Board member Kenneth Adelman wrote in the *Washington Post* that "demolishing Hussein's military power and liberating Iraq would be a cakewalk." Not everyone in the defense establishment agreed. General Richard Myers, chair of the Joint Chiefs of Staff, told a press conference in December 2002, "I would just say there's nobody involved in the military planning . . . that would say that this sort of endeavor—if we are asked to do it—would be a cakewalk . . ." But the image had legs, so to speak, and on April 22 Nicholas Kristof could write in the *New York Times*, "No one got the level of resistance quite right. We doves correctly foresaw that the war would not be a cakewalk . . ."

In fact, by the time American troops entered Tikrit, the metaphor had become almost wholly unmoored from any analytic specificity, and the tenacity with which the disputants clung to the word was baffling. Coalition troops in Iraq had routed perhaps four times their number in three weeks—but the critics clearly felt they had gained some moral advantage when Kenneth Adelman used the word, and thought that they might still win the argument.

The cakewalk, popular on American plantations in the 1850s, and the first dance to cross over from black to white society, had couples promenading, high stepping, and kicking; Adelman's phrase might have suggested that the war would be no more than an exuberant parade. This was probably a misreading: the first definition is simply "something easily accomplished," and as early as 1916 the word was used to denote a comparatively effortless military endeavor. What, precisely, had Adelman meant?

If you were looking to pillory Adelman, you could land on the fact that he'd asserted that tactical air power, special forces, and Kurdish irregulars would suffice to topple Saddam's regime: our Afghan War, redux. This was an old, old dream: first, air power's prophets, then, its lobbyists had repeatedly predicted that air power would make possible cheap imperial policing operations, or would allow capital-rich states to make inexpensive and ever victorious war upon their less sophisticated enemies, or would prove so frightful that the next war would be the last, or would make manpower-intensive traditional militaries obsolete. In an alleged irony that the critics never tired of asserting, Afghanistan and Iraq were two of the first places imperial air war was tried (in the 1920s).

But the much-predicted future of cheap, independent, and ever successful air operations has yet to arrive, and in the event, Coalition combat units in Iraq included five divisions. Although three of those divisions seem to have done almost all of the fighting, one can not argue that a minimal commitment of manpower sufficed to shatter Saddam's regime: in addition to the hundred thousand Coalition troops in Iraq when the Pentagon declared victory, there were at least as many more in theater. But Adelman also wrote that expelling Saddam from Kuwait in 1991 had been a cakewalk, which meant that an Adelmanian cakewalk could require up to half a million troops, an air campaign lasting many weeks, and a few hundred Allied dead. So Adelman almost certainly understood a cakewalk as encompassing a significant effort and some human cost; his rhetorical blunder was to deploy a metaphor connoting a jauntiness that seems tasteless in describing any war. But in minimizing the likely cost to the Coalition, Adelman was clearly on to something. The Gulf War was an astonishingly one-sided victory, and Allied losses in Iraq

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War were around a third of our losses in the 1991 conflict.

Still, the Gulf War was not necessarily a perfect predictor of the outcome of the Iraq War. In 1991, the Iraqis were outnumbered, and after one hundred hours of ground combat were allowed to retreat unmolested; the regime was not fighting for its survival, nor the troops for their national soil. In the Iraq War, both were presumably more highly motivated. There were some disturbing precedents: formations that had fought wretchedly when invading Iran had proved tenacious and finally effective when defending Iraq; the Republican Guard had fought courageously (and in the case of the Tawakalnah division, not wholly unskillfully) when covering the withdrawal from Kuwait. But the precedents were misleading: the result was swift and absolute defeat. By any comparative standard, Coalition losses were negligible: there were sixty-eight American deaths attributed to enemy action, and adding in British deaths, the Coalition fatalities were around a hundred—losses terrible for those who bore them, and for those who mourn them, but fantastically small in any historical perspective.

What is a suitable perspective? Vietnam? Allied deaths in the Gulf and Iraq Wars totaled less than the United States incurred in an average week at the height of the Vietnam War. The Second World War? Pick a proverbial military triumph of the Second World War, in fact, pick the first: the Polish campaign. The *Wehrmacht* crushed Poland in a thousand hours, and that first blitzkrieg remains a byword for an appalling mismatch. In the course of that mismatch, the Poles inflicted fifty thousand casualties on the *Wehrmacht*. The *Wehrmacht*, of course, had significantly outnumbered the Poles, while the hundred thousand Coalition troops had routed three hundred thousand Iraqi troops, and perhaps another hundred thousand militia.

Combine the disparity of losses and the relative size of the forces committed, and you probably have to go back to Agincourt to find so great a victory—but the lethality of weapons has increased notoriously since Agincourt, which makes the minute Coalition losses even more astonishing. So the Iraq War is more or less sui generis: an unprecedented feat of arms that many observers refused to recognize while it was occurring, and which some could not bring themselves to acknowledge even after it had transpired. R. W. Apple was typical. Writing in the *New York Times* on March 29, he could claim,

> With every passing day, it is more evident that the failure to obtain permission from Turkey for American troops to cross its territory and open a northern front constituted a diplomatic debacle. With every passing day, it is more evident that the allies made two gross misjudgments in concluding that coalition forces could safely bypass Basra and Nasiriya and that Shiite Muslims in southern Iraq would rise up against Saddam Hussein. Already, the commander of American ground forces in the war zone has conceded that the war that they are fighting is not the one they and their officers had foreseen. "Shock and awe" neither shocked nor awed.

WHY WERE the pessimists so wrong? What does the victory presage for the future military balance? At the risk of mistaking current shibboleths and pseudo-explanations for more than the clichés of the moment, one can say that the Coalition's staggering victory was the result of the proficiency of its combined arms and operations—the brilliant integration of its mechanized forces with its tactical air power—that shattered an Iraqi army peculiarly ill-suited to and ill-equipped for the war it had to fight. As in 1991, it was essentially defenseless against aerial attack and incapable of maneuver. After successive defeats, it melted away. In 1991, hundreds of thousands of Iraqi troops began to desert after forty-two days of air attacks; this time, fewer air attacks over a shorter period seem to have produced a similar effect: many of the Iraqis were indeed shocked and awed. The Coalition's ability to avoid inflicting vast numbers of civilian casualties minimized the initial political costs of the war and may have denied the regime an effective rallying cry. But how do we assess the interpenetration of these causes? We still know very little, and other significant factors may emerge.

For example, by some accounts the Coali-

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tion had ten thousand special forces operating behind Iraqi lines, and we do not yet know much about what those forces were doing. We know that they seized key airfields in Western Iraq and engaged in Scud hunts in areas from which missiles might have reached Israeli cities. We know that special forces coordinated tactical air power and the Kurdish Peshmerga, so that after Turkey refused to allow the deployment of the Fourth Infantry Division on her soil, a northern front was nonetheless developed. And on that front, forces coordinated by Coalition special forces did take Kirkuk and Mosul and annihilated or forced into Iran units associated with al-Qaeda. The diplomatic debacle with Turkey is unlikely to have delayed the victory by as much as a week.

Special forces may also have assisted in the decapitation of the Baath regime and the Iraqi armed forces by attacking command and control facilities, or by assassinations, or by subversion, or by assisting in the acquisition of targets for Coalition bombardment—all with as-yet incalculable effect. It is likely that the attacks on Iraqi command and control, both those executed by special forces and by Coalition aircraft, aggravated certain noteworthy tendencies of totalitarian regimes at war: the inability to secure good information from a terrorized and politicized officer corps, the party's mistrust of the armed forces, the difficulty of delegating authority to lower level commanders who can seize evanescent opportunities. The analogy hounds had the wrong scent: there may have been a disastrously Stalinoid command structure, but there was no Stalingrad in the making.

Memories of the crushing defeats of the Gulf War, and the swift destruction of any force that contended with the Americans over the course of the Iraq War, presumably had a cumulative effect on morale. An uninterrupted series of defeats—a sense of hopelessness—can dissolve armies. We do not know how many Iraqi troops were killed as opposed to how many simply deserted, and we do not know how many were suborned. Anecdotal evidence suggests that many deserted: there were reports of whole battalions of boots neatly lined up by the roadside, with small arms stacked next to them (boots give deserters away to both military and secret police, and also to the enemy, who may put even deserting troops behind wire).

What do we know? We know that the Republican Guard divisions were deployed outside Baghdad rather than within it, and had been devastated by repeated Coalition air strikes, attacks to which they could make almost no effective reply. These air strikes could be launched without the greater risk of "collateral damage" we'd have run had we been hitting units concealed in the midst of a civilian population of four and a half million. By failing to deploy and fight inside the city, the Republican Guard forfeited significant advantages: cities are de facto fortresses, they blunt some of the technological and tactical advantages of the Coalition forces, and the pessimists knew this.

Why did the Republican Guard deploy as it did? One report asserted that the Guard had been forbidden to deploy within Baghdad for fear that it would attempt a coup (as had happened in the wake of the Gulf War). This sounds plausible. Another possibility is that it was ordered to keep the Coalition forces out of eyeshot of Baghdad. Saddam's regime may have thought—possibly correctly—that it needed to appear invincible to sustain the terror that secured obedience. American units within sight of the city might well have triggered the Shiite revolt the regime so feared (more than half the capital's population is Shiite; perhaps a third of the Baghdadis are Sunni).

But the failure to fight in cities meant that Iraqi armor faced American forces under the worst possible conditions: relentlessly attacked from the air, then engaged by vastly superior Abrams tanks. If and when tanks meet head-on in open country, few anti-tank weapons can penetrate the glacis plate of an Abrams; the Abrams's main gun significantly outranges enemy tank guns; its hydraulically stabilized turret, targeting technologies, and the skill of its crews mean that it can fire on the move, and at night, with remarkable accuracy. Lighter American armor—Bradleys and even the marines' wheeled and thin-skinned LAVs (Light Armored Vehicles)—are also remarkably ca-

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pable against heavier armor. The superior proficiency of American troops greatly exacerbated the difficulties posed by their superior matériel: while the best Iraqi troops have historically shown admirable qualities—unit cohesion, courage and tenacity, an ability to fight set-piece defensive battles—American tactical skills vastly overshadow those of Iraqi troops.

The Iraqi army, like other modern Arab armies, is traditionally bad at tactical leadership, improvisation, information management, weapons handling, and maintenance; peculiarly ill-trained to cope with high-tempo operations; and generally bad at maneuver. No one who paid attention to the Gulf War should have been surprised by the abilities of Coalition troops. At close quarters, and above all inside cities, some (although by no means all) of the Coalition advantages might have been minimized: for example, in urban combat, enemies can fire at the thinner armor on the sides and rear of an Abrams.

Few of the pessimists imagined the Republican Guard divisions staging an upset in the desert; they were not thinking about the Gulf War at all. The old saying holds that we remember the future and imagine the past. The most vivid future remembered (that is, projected) by many of the pessimists was Vietnam, where the vast material superiority of the United States had arguably been squandered by strategic vacuity. But that was not the past the pessimists imagined. The imagined past was one where the Vietnamese willingness to die exceeded our willingness to kill them, and where the civilian deaths seemed to negate any plausible moral calculus. Was rescuing a country from a revolutionary nationalism captured by Stalinists worth a million Vietnamese deaths? Was it worth two million? In the remembered future, this past would repeat itself; the Americans would and could learn nothing from it.

The pessimists and the Baathists anticipated a war of protracted urban combat, guerrilla warfare, and terrorism, where Coalition casualties would mount inexorably and Iraqi civilian casualties swiftly reach appalling levels. For the Baathists, other imagined pasts would then come into play: the antiwar movement, or the United Nations, or the Russians and French would force a ceasefire and save the regime. As a military analogy, the critics were thinking of a certain narrative of Jenin (or of Hue), and also recalled Stalingrad, Berlin, and Warsaw; they had a good sense of Grozny, and a vivid if misleading one of Mogadishu (where the Americans admitted to killing a thousand of their enemies, and may have killed as many as thirty-five hundred of them, after a loss of eighteen dead). The Battle of Baghdad was to be Stalingrad on the Tigris, or the fantasy Jenin (the Jenin of the genocidal massacre) multiplied a thousand-fold. Some of the critics knew the story of the Stalingrad grain elevator—where forty or fifty Russians held off ten times their number for days. Urban warfare can be hideously expensive for the attacker: within two weeks, the Germans controlled half of Stalingrad, but at a cost of 7,700 dead and 31,000 wounded.

Let one of the more distinguished journalist-critics stand for the rest: on March 28, Simon Jenkins wrote in the London *Times*,

> In Baghdad the coalition forces confront a city apparently determined on resistance. They should remember Napoleon in Moscow, Hitler in Stalingrad, the Americans in Mogadishu and the Russians at Grozny. Hostile cities have ways of making life ghastly for aggressors. They are not like countryside. They seldom capitulate, least of all when their backs are to the wall. It took two years after the American withdrawal from Vietnam for Saigon to fall to the Vietcong. Kabul was ceded to the warlords only when the Taliban drove out of town. In the desert, armies fight armies. In cities, armies fight cities. The Iraqis were not stupid. They listened to Western strategists musing about how a desert battle would be a pushover. Things would get "difficult" only if Saddam played the cad and drew the Americans into Baghdad. Why should he do otherwise?

Cities do not fight armies; peoples will on some occasions fight armies, but this was very far from such an occasion. The Baath regime could neither induce Iraqis to die for it in any significant numbers nor compel the Coalition to kill large numbers of Iraqi civilians. The two phenomena were interrelated: had the United States killed large numbers of civilians, it is

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possible that Iraqi willingness to die for the regime would have increased, and had large numbers of relatively skilled Iraqis been available to fight in built-up areas, it is likely that the United States would have been compelled to inflict significant collateral damage. But secret policemen and party thugs do not seem to make the best light infantry.

Nonetheless, a vicious circle was foreseen by critics of the war, and imagined to be most acute in the "inevitable" urban combat; a representative analysis, by James K. Galbraith, appeared in the *American Prospect* on April 1:

> The dilemma is now acute. . . .The level of violence will therefore be raised. Meanwhile, the prime stocks of precision munitions have been drawn down, and speculation about the future use of cluster bombs and napalm and other vile weapons is being heard. And so the political battle—the battle for hearts and minds—will be lost. If history is a guide, you cannot subdue a large and hostile city except by destroying it completely. Short of massacre, we will not inherit a pacified Iraq.

This did not happen. There are as yet no estimates for Iraqi combat casualties, but there is one interesting estimate for civilian deaths: the one offered by the regime itself, before it was destroyed. On the regime's own count, Coalition attacks killed on the order of two thousand civilians. Although it is possible that the estimate is low—the result of an inability to gather complete information—it seems more likely that it is high, given the regime's notorious mendacity. This is an astonishing figure, particularly when one considers that the regime's forces systematically broke the laws of war with the likely result (and probably the intent) of provoking civilian casualties: by feigning surrenders, threatening and on occasion carrying out terrorist attacks, and locating munitions and combatants in civilian neighborhoods, most especially in those structures most likely to evoke rage if attacked, in schools, hospitals, mosques, and Shiite slums.

Why were civilian casualties so low? In part because of the self-restraint—with a few exceptions—shown by Coalition troops and in part due to a technological revolution, the use of precision-guided munitions, particularly GPS (Global Positioning System)-guided munitions, in unprecedented quantities. Precision-guided munitions arrived late in the Vietnam War; the revolution they represent is now more than a quarter of a century old. The revolution has been much announced and (somewhat unfairly) dismissed several times. It has now indisputably arrived: 10 percent of munitions dropped in the Gulf War were precision guided missiles, whereas perhaps 90 percent of the munitions used in Afghanistan were PGMs. In this war, Coalition aircraft flew 15,825 sorties and delivered 27,250 weapons in 21 days (fewer than one-third of the strikes and a tenth the number of weapons employed in the Gulf War). As far as is now known, only four or five of these weapons indisputably missed their targets and killed Iraqi civilians. The resulting civilian casualties were shown again and again on the twenty-four hour Arab television network al-Jazeera and enraged opinion in the Arab world. But in Iraq, where after a while it was impossible to see al-Jazeera or the British Broadcasting Corporation, the casualties were misrepresented by less plausible sources—and opinion does not seem to have been enraged to the point of producing significant support for the embattled regime.

For comparative perspective, during the Second World War, indeed during the Vietnam War, hundreds and sometimes thousands of bombs were necessary to destroy specific targets. American air-launched munitions now generally land within at least a few meters of their targets, and in many cases a single bomb will destroy a target with a warhead small enough to minimize the collateral damage it will inflict if it misses. For further comparison, in the first years of the Second World War, the British Royal Air Force managed to drop fewer than half its bombs within five miles of their aim points. Strategic bombing was so inaccurate that the Germans were often unable to determine what the RAF was trying to hit. American bombs are now so accurate that they are in some cases inert, filled with concrete. Dropped from a sufficient height, concrete bombs can destroy tanks; if they miss their targets, they are unlikely to kill civilians. This unprecedented accuracy vastly multiplies both the military and the political effectiveness of

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tactical air power. Another technological advance involves real-time targeting—it is reported that in at least one case during this war, fourteen minutes elapsed between the acquisition of intelligence on a target and the delivery of the munitions.

THE REFUSAL of most Iraqi troops to fight to anything like the bitter end remains the crucial element in explaining the dimensions of the victory. This refusal was presumably in significant part the result of Coalition military action: the cumulative effect of bitter experience, of repeated hopeless engagements. We may surmise that Iraqi morale had previously been eroded by the quarter-century of needless sacrifice and privation, most recently by the miseries wrought by the sanctions, and greatly exacerbated by Saddam's kleptocracy.

And the refusal was in some part the result of the intrinsic fragility of a multinational empire of dubious perceived legitimacy. One can overrate this effect, and it is a mistake to assume that rulers receive no more than they deserve in time of war: they often receive far more than they deserve. The novelist Alan Furst once wrote that "Hitler invaded the Soviet Union, but Russia fought back," and this is an old story. Leaving aside his own Russian catastrophe, Napoleon invaded a decaying monarchy in 1808, but Spain fought back, to devastating effect. When the Coalition attacked Saddam Hussein, most of Iraq did not fight back; the evidence suggests that in terms of potential military energy, Iraq was in 2003 not a nation, but lines on a map.

This, too, is an old story: Croatian conscripts deserted the multinational Yugoslav monarchy in 1941, and minority nationalities at times fought indifferently for the Hapsburg and Czarist Empires in the First World War. The Iraqi state, perhaps 60 percent to 65 percent Shia Arab and 20-some percent Kurd, has been a notoriously cruel tyranny misruled by a minority of a minority: Saddam's loyalists among a Sunni Arab minority that may make up 17 percent of its population. If the political cohesion of the Iraqi army disintegrated under the shock of war, this may in retrospect seem to have been inevitable, but it wasn't. When Saddam attacked Shia Iran, his own Shia conscripts were generally reliable (and his Republican Guards were eventually formidable). We do not know why this was so, but the likely explanations are the unattractiveness of the Iranian theocracy and effective Baath terror. Elias Canetti memorably wrote that "inside every army there is a crowd, struggling to escape." Sometimes—although oddly rarely—the crowds do escape, and armies disintegrate. Terrorist discipline can maintain cohesion, generally (although not always) at a significant cost: the German army executed at least fifteen thousand soldiers for cowardice and desertion over the course of the Second World War, during which time the American army executed one man, but the relative effectiveness of the two armies does not seem to demonstrate that terrorist discipline inevitably exacts a stiff price in military capacity.

In the Iraq War, though, it seems very likely that although terrorist discipline kept some part of the Iraqi army and militia together for a couple of weeks, the cohesion so achieved was pretty minimal, and the price paid for this modest achievement may have been steep. When the militias seemed to be holding Basra and counterattacking (however sporadically and ineffectively) the Coalition's lines of communications, the regime apparently attempted to reinforce what it mistook for success by sending detachments of its most reliable troops south, to stiffen resistance by threatening hideous reprisals against people who shirked sui-

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cidal attacks. In retrospect, these troops might have been better employed in Baghdad.

But those early pseudo-successes in the south misled some observers, especially those desperate for signs of Coalition failures. Even after the war, the failed attacks and a misinterpretation of the strategy of bypassing some cities gave rise to something of a stab-in-the-back myth. On April 20, Edward Said wrote, in the *Observer*,

> Adding to the fraudulence of the weapons not found, the Stalingrads that didn't occur, the artillery defenses that never happened, I wouldn't be surprised if Saddam disappeared suddenly because a deal was made in Moscow to let him, his family, and his money leave in return for the country. The war had gone badly for the US in the south, and Bush couldn't risk the same in Baghdad.

But to anyone with a sense of military history, the war had not gone badly for the United States in the south. It had not gone badly anywhere. Helicopter gunships were on one occasion driven off by anti-aircraft fire; this may have been the sum of the things that went badly. The Coalition had run risks it might not have run in the face of a more skillful or enterprising enemy. It had wagered, and it had won on an astonishing scale.

The misperception and misinterpretation of the "failure" of Shiites to rise in the south—or in Baghdad—suggests that observers both in the region and in the world press have a shaky grasp of the probable behavior of people incarcerated in totalitarian regimes. People who have been repeatedly and effectively terrorized—and within recent memory betrayed and abandoned by the outside world—are arguably unlikely to risk everything on the off chance that the Americans will arrive before the *Mukhabarat* does. They will probably wait until the authority of the regime is very visibly disintegrating. The tipping point came late, when American armor raided downtown Baghdad, but it came. People who assumed that the absence of an immediate revolt meant that the people of Iraq were loyal to the regime were very foolish, or peculiarly inattentive to the decades of reports from human rights organizations. Since the fall of Baghdad, the photographs of, and interviews with, men with amputated tongues, cropped ears, gouged eyes, and hideous scars; the reports of the rape couches with restraints and convenient video cameras—so that the rapes could be demonstrated to relatives living abroad; the prison of children liberated on the road to Baghdad; and all the ghastly lot of it, have presumably made some of this clear. But perhaps not.

A number of observers also mistook the attacks by the Saddam Fedayeen for signs of popular resistance. This was like someone mistaking the escalating 1944 savageries of the desperate and despairing *Milice* for a sign of the broad popularity of its creator, Pierre Laval, and the Vichy regime—but oddly enough, no one at the time seems to have made that mistake. Journalism may not be a progressive science.

It is tempting to pronounce the pessimist case bankrupt. After all, the Arab street did not rise; the Turks did not invade northern Iraq; hecatombs of civilians were not slaughtered by promiscuous air attacks or Iraqi chemical weapons. Regime terrorism did not provoke systematic and savage Coalition responses; urban warfare did not gut the American army; the war did not involve Israel. A few days before the war began, published predictions by the more respected nongovernmental organizations ranged up to fifty thousand civilian deaths, five hundred thousand civilian injuries, and two million refugees and displaced people. The smallest error in this series is off by more than an order of magnitude. But the pessimists retain a powerful argument: proverbially, one can neither mine coal with bayonets nor sit on them. Stable democratic societies are not spontaneously generated by bayonets, either. The work of securing a decent Iraq necessarily began with war, but that goal has many enemies and amazingly few friends. It would be difficult to produce an Iraqi regime as ghastly as the one we have destroyed. Whether we can produce a vastly superior one is an open question. Americans are much better at war than is generally understood, but that is no reason to think that we will show any genius at liberal imperialism.

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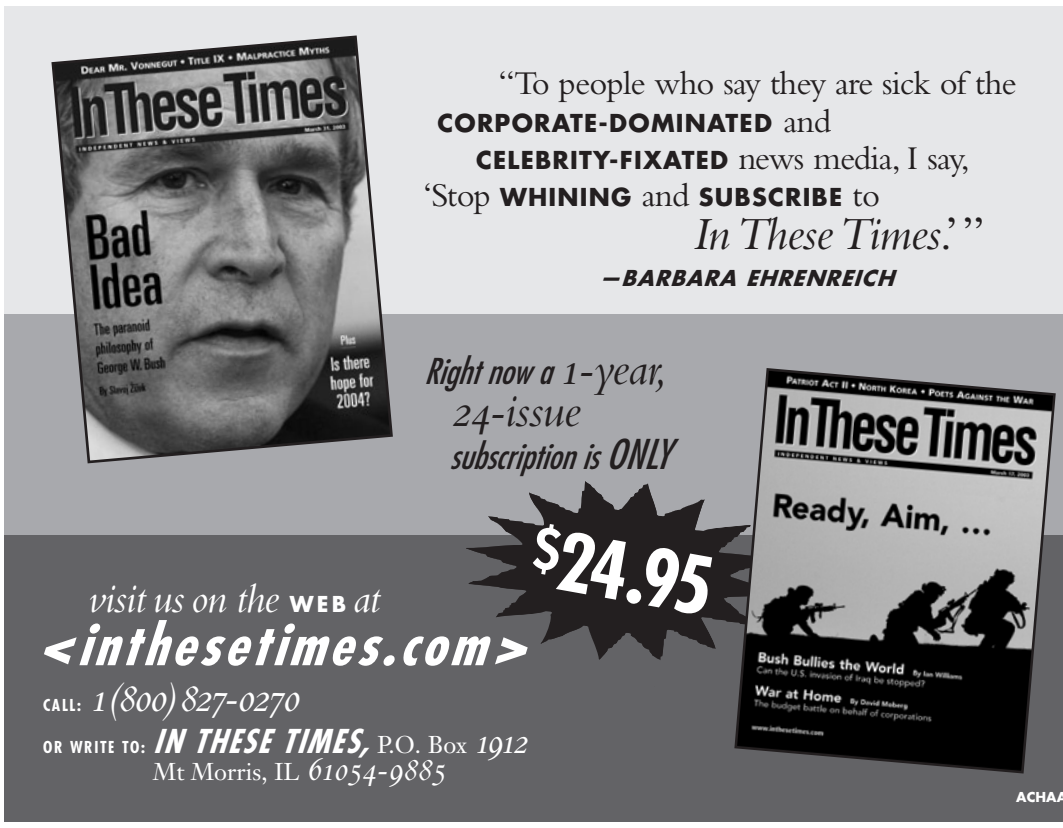
What does the war indicate about the future balance of power? The conflict in Iraq took place under optimal conditions. The United States was able to build up massive forces in a bordering state (Kuwait) and attack at leisure. Iraq was in range of both land- and carrier-based air power, and its armed forces could neither contest American air supremacy nor challenge our control of the seas. The Baathists did not possess effective weapons of mass destruction or chose not to use them. Not all potential antagonists will be so vulnerable. But some of them are, and seem to know it.

A generation ago, it was fashionable to suggest that the conventional military balance was tipping away from the United States and its allies. Its increasingly expensive weapons systems—the descendents of the armor and tactical aircraft that had dominated the Second World War—were allegedly no longer cost-effective at the margins, for they were now too easily countered by relatively cheap anti-tank and anti-aircraft weapons. Simultaneously, pundits thought that revolutionary nationalism had opened up inexhaustible reservoirs of potential military energy, energy that would increasingly be exploited by third world states and insurgencies. It was widely assumed that the Americans (and their allies) could do nothing about these alleged trends.

But this was an illusion. In retrospect, Vietnam and the October War of 1973 were the high-water mark of third world military relative effectiveness in conventional contests with modern Western states. Thoughtful observers are now more struck by the weakness and fragility of many hostile regimes than by any premonition of their increasing military strength. In the long run, China and India may (or may not) be rising military powers. No plausible challengers are visible anywhere else. ●

Fred Smoler teaches literature and history at Sarah Lawrence College and is a contributing editor at *American Heritage* Magazine.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The Struggle for Power in Iraq

Yitzhak Nakash

The American government expected Iraqi Shiites to rise against Saddam Hussein during the U.S.-led war last spring: why was there no rising? Fear of the Baath regime intermixed with a sense that the United States betrayed them in the wake of the Gulf War are important factors in explaining the hesitation of the Shiites. Analysts and reporters covering the war noted these factors, but they paid too little attention to the role of nationalism. We need to examine the historical struggle between Arab Shiites and Sunnis over the meaning of Iraqi and Arab nationalism if we are to understand the cautious attitude adopted by Shiites during the war as well as the challenges facing the United States as it attempts to win the peace in postwar Iraq.

Britain, the mandatory power, created Iraq in 1921 as a state ruled by a Sunni minority elite. The new British rulers viewed the Shiite religious leaders of Najaf and Karbala as extremists whose influence over the largely tribal Shia population had to be curtailed. So they bequeathed Iraq to the Sunni Sharifians led by King Faysal (son of the Sharif Hussein of Mecca, who declared the 1916 Arab revolt against the Ottoman Empire) and to a group of ex-Ottoman Sunni officers who joined Faysal in Syria during World War I. "I feel convinced," wrote the British plenipotentiary Gertrude Bell from Baghdad, "that our best allies are the Mesopotamians who served with Faisal and have the true spirit of Arab nationalism in them. . . . They will be regarded with considerable jealousy here, but they are capable men and they are men with an ideal." The Sharifians and the ex-Ottoman officers ruled Iraq until 1958. A decade of instability followed the collapse of the monarchy in that year, leading to the seizure of power by the Baath and the subsequent rise of the Sunni Tikriti clan whose members, led by Saddam Hussein, ruled Iraq until April 2003.

This means that in modern Iraq a Sunni minority, constituting some 17 percent of the population and based in central Iraq, held sway over the Shiite majority of 60 percent spread over southern and central Iraq and over a Kurdish minority of 20 percent in the north. The Sunnis felt entitled to rule Iraq, considering themselves the heirs of the Ottoman Empire. Their claim to rule was strengthened by the preponderance of Sunnis over Shiites in the wider Arab world and by the support of Arab Sunni leaders, including the rulers of Saudi Arabia, who view Shiism as heresy and have felt more comfortable with Sunni rule next door. Western powers bolstered Sunni rule in Iraq; until 1991, the U.S. government considered the Baath regime as a bulwark against Shiite Iran. This view prevailed even in the immediate aftermath of the Gulf War when the first Bush administration ruled out action to aid Iraqi Shiites who rebelled against Saddam.

Like the Sunnis, the Shiites are predominantly Arabs. Shiites became a majority in the country only in the nineteenth century as the bulk of Iraq's Arab nomadic tribes settled down and subsequently espoused Shiism. Although Sunnis and Shiites have had conflicting political aspirations, both groups have a stake in preserving the territorial integrity of Iraq. Whereas for the Sunni minority an intact Iraq is a matter of survival, for the Shiite majority the question is rather one of gains and losses. Were Iraq to splinter, Shiites in the south would lose the capital, Baghdad, despite the fact that Shiites are half its population. They would also lose the shrine cities of Kazimain and Samarra, situated in central Iraq, as well as substantial revenues from the northern oil fields. And finally, they would not be able to realize their dream

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of attaining power in a large and prosperous state. Shiites have nourished that dream ever since their failed revolt against the British in 1920, when the plan of Shiite clerics to dominate Iraq misfired.

In the months leading up to the revolt, the Shiite religious leaders in Iraq and the Sunni Sharifians, then based in Syria, forged an alliance aimed at creating an Arab Islamic state ruled by an Arab emir and a legislative assembly. Whereas the Sharifians considered this formula an opening for their rule of Iraq, Shiite clerics hoped that it would enable them to oversee the legislative process once British control was ended. The Shiite tribes rose, but they were crushed by superior British arms. And then, to the dismay of the Shiites, the British brought the Sharifians to power, even though their part in the rising was not less than that of the Shiites. In subsequent years, Shiites would claim that their uprising had enabled the Sunni minority to attain power and enjoy all the fruits of office. In a statement submitted to British and American diplomats in 1932, Shiite leaders lamented, "Our endowments have been taken away, our lands confiscated, our trade depressed, and even our cemeteries have come under their control." This feeling that Iraq was created in sin is still strong today, when the United States is seeking to refashion Iraq's political system.

Much of the tension between Shiites and the ruling Sunni elite in prewar Iraq stemmed from the competition of the two groups over the right to rule the country and to define the meaning of nationalism. Whereas the Shiite majority preferred Iraqi nationalism, Sunni rulers adopted Pan-Arabism as their main ideology and took the preference of the Shiites as proof that they did not share the government's commitment to the ultimate goal of an Arab state extending far beyond the borders of Iraq. The struggle over Iraqi and Arab nationalism dates back to the early years of the monarchy. Iraqi Shiites rejected the government's attempt to develop a secular modern Arabism, which they viewed as an invention of Sharifian and ex-Ottoman officials. Instead, they emphasized their Iraqi identity and Arab tribal attributes. Ali al-Sharqi, for example, offered a vision of Iraqi nationalism built on the historical role of Iraq's tribes in preserving the "true" spirit of Arabism in the country. He advocated the development of an Iraqi national history, inspired by the effort of Egyptians to use their ancient past as a foundation myth.

Sharqi died in Iraq in 1964. He lived at a time when Iraqi governments still tolerated a degree of opposition and intellectual dissent. Later Shiite writers ended up in exile and had to publish their books outside Iraq. Writing from outside, they highlighted the Hijazi and Syrian origin of the officials who accompanied Faysal to Iraq as well as the Turkish origin of leading politicians under the monarchy. They charged that although Iraq's Sunni politicians claimed to rule in the name of Arabism, they had no familial links to Iraqi Arab tribes nor did they share the life of the Iraqi people. Iraqi governments both during and after the monarchy, Shiite writers argued, had emptied the word "Arab" of its old meaning (which connoted tribal origin and identity), and infused the word "Arabism" (*uruba*) with a new, Western, meaning. Iraqi Shiites had traditionally understood *uruba* as a quality derived from people's descent, but in the twentieth century the word became associated with "nation," and in modern Iraq it has been used interchangeably with *qawmiyya*, which connotes Arab nationalism.

In turn, as part of an effort to discredit the nationalist credentials of the Shiites, Iraqi rulers presented Shiism as a subversive heresy motivated primarily by Persian hatred for the Arabs. To underscore the magnitude of the Shiite threat to the Iraqi state and to Arab nationalism, they invoked the memory of the *shuubiyya* movement that appeared within Islam in the eighth century. The term *shuubiyya* derives from the Arabic word *shuub*, which means peoples and nations. The majority of those who joined the movement during the eighth and ninth centuries were Persians and Aramaeans who protested the privileged position of the Arabs within Islam and demanded equality for all Muslims. The appearance of the *shuubiyya* became an issue of major concern for Arab historians and literary figures, some of whom considered the movement a threat both to Islam and to the supreme position of the Arabs among the world's nations. The term

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shuubiyya fell out of use in the medieval period; its reappearance in modern times was connected to the rise of Arab nationalism.

The first explicit Iraqi government attempt to depict Shiites as a threat to Arabism may be traced to the early years of the monarchy. The Baath began using the word *shuubi* to attack its opponents long before coming to power. Between the mid-1940s and early 1970s, *shuubi* became a curse word directed mainly against Iraqi communists, the majority of whom were Shiites. Abd al-Karim Qasim, who ruled Iraq for five years after the monarchy was overthrown in 1958, was a prime target of the Baathists, who depicted him as a separatist and a *shuubi* despot. Qasim, the son of a Fayli Shiite mother and a Sunni Arab father, advocated Iraqi nationalism and made the unity of the country his main goal. In an interview with a Lebanese journalist, Qasim articulated his view of Arabism—a view shared by many Iraqi Shiites: "For us," he said, "Arabism is not a means for achieving political ends, but a quality derived from our noble social origin and standing." In opting for Iraqi identity, Qasim and the majority of Iraqi Shiites adopted a line similar to that advocated by the Egyptian nationalist Lutfi al-Sayyid, who maintained that Egyptians should insist on preserving their Egyptian identity and not seek affiliation with any other state. Qasim was executed by Baathi officers who led the 1963 coup on charges that he was an enemy of Arabism—which was evident, they said, from his refusal to join the United Arab Republic. He is remembered by Shiites as the single nationalist leader who attempted to break the mold of an Iraqi state built on sectarian divisions and ruled by a Sunni elite.

During the Iran-Iraq War of 1980-1988, the Baath tied the *shuubiyya* theme to the critical question of who belongs to Iraqi society and to the Arab nation and who does not. The Baath declared itself the defender of Arabism against its Persian and Zoroastrian enemy and launched a campaign to discredit Iraqi Shiite opposition groups by linking them to the Islamic Republic of Iran. The war was called *Qadisiyyat Saddam*, a name that invoked the historical Arab victory against the Persians in Qadisiyya in southern Iraq in 636; it was described as a cultural and national struggle between Arabs and Persians—which would enable the Arabs to rediscover their historical roots. Saddam Hussein was the leader chosen by modern Arab history to fight Iran and establish one Arab nation. Iranians, led by Ruhullah Khomeini, were *shuubi*s whose goal was to destroy Arab culture and replace Arab rulers with Persians. The Baath drew a line between "bad" and "good" Shiites. The Iranians who fought Iraq were depicted as extremists. By contrast, those Iraqi Shiites who were not swayed by the Islamic Revolution and did not join the opposition to the Baath, were declared followers of Imam Ali, who fought extremism.

Fighting for its survival after the Shiite uprising in 1991, the Baath attempted to put a wedge between the Shiite rebels in southern Iraq and the residents of Baghdad who did not join the uprising. At a time when army units loyal to Saddam were still trying to regain control of the south, the Baath published a series of articles in the newspaper *al-Thawra al-Iraqiyya*, attacking the identity of Iraqi Shiites, particularly the marsh Arabs. The writers presented the Shiite rebels as a foreign people within Iraq: some were of Iranian or Indian origin; others were Arabs who lost their identity because they lived for many years close to the Iranian border. The marsh dwellers were depicted as barbarians whose value system was primitive in comparison with that of the people of Baghdad and who stood in the way of a unified Iraqi state. The writers also attacked the Shiite college system (*madrasa*) in Najaf and Karbala, arguing that the students there were exposed to a foreign religion spread by Iran. Highlighting the difficult mission that the Baath leadership took upon itself in trying to restore Iraq to its Abbasid glory, they described the uprising as an act of betrayal, an attempt to undermine the mission and steal Iraq from its people.

Shiites viewed the government's use of *shuubiyya* as a strategy of the Sunni minority to maintain power; they argued that the debate over the eighth- and ninth-century movement should have been confined to academia. In introducing the issue of *shuubiyya* into political life, Iraq's rulers risked creating a rift among Arabs in modern times similar to the rift that divided the Muslim community over the suc-

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cession to the Prophet Muhammad. Shiites highlighted the Arab roots of Shiism and defended Shiite poets of the Abbasid period whom Sunni writers depicted as *shuubis*. Ahmad al-Waili, for example, dedicated an entire book to the issue, denying the Persian origin of Shiism and arguing that Shiite poets were among the leaders of the opposition to the *shuubiyya* movement during the Abbasid period.

THE LARGE MAJORITY of Iraqi Shiites probably have no aspiration to mimic the Iranian Islamic Republic. Their religion is much more sober and down to earth than Iranian Shiism, which has been shaped by Persian culture and by socioeconomic and political conditions specific to Iran. It is the frustration of Iraqi Shiites with their exclusion from the political process that explains their attraction to the Islamic Daawa Party during the 1970s and 1980s. The Daawa drew the bulk of its supporters from the slums of Baghdad, home to newly arrived Shiite migrants from the south, and from among students at Baghdad University. A good number of those who joined the Daawa were former supporters of the Iraqi Communist Party, disillusioned by the failure of Communists to bring political change to Iraq. In the Daawa, Shiites supported an Iraqi Arab leadership, and they took pride in the cleric Muhammad Baqir al-Sadr, whom they felt was one of their own.

The Iranian Revolution stirred strong anti-Saddam sentiments among Iraqi Shiites and led the Daawa to challenge the Baath regime. Nevertheless, although Sadr advocated an Islamic government, he acknowledged before his execution by the Baath in 1980 that the political and socioeconomic conditions for an Iranian-style Islamic revolution did not exist in Iraq. Indeed, the concept of the rule of the jurist (who commands absolute religious and political authority), developed by Ruhullah Khomeini and implemented in Iran after 1979, did not have much support among Shia laymen affiliated with the Daawa. Members of the organization called for an Islamic government, but also expressed their allegiance to Iraq and did not argue for a merger with Iran. In any case, the power of the Daawa in Iraq was largely broken by the Baath during the 1980s. Subsequently, the organization split into groups, which, until the 2003 war, were based mainly in Iran, Syria, and Britain.

The Iran-Iraq war of 1980-1988 revealed the strong national identity of the Iraqi Shiites, who formed a majority of the infantry's rank and file and fought against their Iranian coreligionists. The same nationalist sentiments were also in play during the 2003 war, influencing both the decision not to rebel against Saddam Hussein and the ambivalence toward the U.S. invasion. Although Iraqi Shiites yearned for the collapse of the Baath regime, they were concerned about their image in the predominantly Sunni Arab world. During March-April 2003 Shiites sought to avoid accusations similar to those leveled against them in the wake of the Gulf War, namely, that they are a fifth column within Iraq, collaborators with Western powers. The Iraqi Shiites are eager to get their fair share of power in a post-Saddam Iraq, but they are unsure about long-term U.S. goals in the country. As Iraqi nationalists, they dislike the idea of a lengthy U.S. occupation or the possibility of an Iraqi government installed by the United States to serve its own interests. In spite of repeated assurances by Bush administration officials that Iraq's oil belongs to its people, Shiites are still worried that the United States is seeking to control the oil resources of their country.

SOME IDEAS and hopes for the immediate future: if the Bush administration is to succeed in its program of regime change, it needs to reach out to the Shiite majority, which it has not known or trusted, and at the same time to ensure that a new regime does not expose the Sunni minority to Shiite revenge. U.S. officials have begun the process of "de-Baathification," but they probably should retain many of the civilian technocrats formerly employed in the bureaucracy. This would signal to Iraqi Sunnis that the overthrow of the Baath regime was not intended to strip them of power, thus giving them a stake in the new Iraq.

The Iraqi army should be transformed from an institution used to suppress opponents of the regime into one that symbolizes national unity—its mission to prevent mayhem inside

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Iraq, assure the functioning of the country's civilian political system, and check foreign incursions whether by states or non-state organizations like al-Qaeda. These goals require that the U.S. military disarm the various militias currently operating in Iraq.

The United States needs to encourage Iraqis to form a representative government and develop a strong parliamentary system. But until political parties have had time to organize themselves and Iraqis are ready to elect their leaders, it may be necessary to form an interim government that represents the communal makeup of Iraq according to an agreed formula. This government should include secular and religious leaders who are respected in the country. The question of whether in the long run Iraq will move from a state governed through a confessional system to a state based on individual representation—this will have to be answered by the Iraqis themselves.

In all likelihood, Baghdad will remain the locus of Iraqi national politics. And eventually, Iraq's foreign and defense policy, and its economic budget and oil production, will also be controlled by a new central government. A good part of the proceeds from oil, however, should be reinvested in development projects in the Kurdish north and Shiite south, where the oil fields are, and which have never gotten their fair share of investment.

Iraqi Arabs (both Shiites and Sunnis) together form some 75 percent of Iraq's population. As the largest ethnic group, the Arabs need to offer the Kurds a pact safeguarding their political and cultural rights within a reunified Iraq. The 1970 accord, signed between Saddam Hussein and Mustafa Barzani, has been described over the years by Iraqi Arabs and Kurds as a decent basis for a settlement. The accord acknowledged the distinct national identity of the Kurds. It permitted them to develop special educational and cultural programs, and recognized Kurdish, alongside Arabic, as an official language in areas where Kurds formed a majority. It promised the Kurds participation in the Iraqi government and predominance in local administration in their own areas. A similar offer, backed by the United States and, preferably, by the United Nations, would begin to resolve the Iraqi "Kurdish problem."

In a new Iraq, the Pan-Arab ideology favored by the ruling Sunni minority is likely to give way to Iraqi nationalism, long preferred by the Shiite majority. At the same time, however, there is a surge in religious expression among Iraqi Shiites, which could develop to include Iraqis across the entire social spectrum. The rise in religious expression in post-Baath Iraq is, to a degree, consonant with developments in other parts of the Middle East in the past few decades, where many people have preferred to express their political identity in religious rather than secular terms. In Iraq today, this preference is troubling—especially so given the power vacuum created by the war and the subsequent collapse of the Baath regime. Shiite Islamists benefited from the persistent commotion in the country and from the fact that the United States has been slow to restore security and services and to make Iraqis feel that they will soon be economically and politically better off than they were under the Baath. Some Shiite religious groups have received help from Iran, which is attempting to gain leverage in Iraq. Moreover, the religious groups took advantage of the inability of the Iraqi middle class to organize itself and have emerged as the most vocal and politically mobilized force in postwar Iraq. Still, the religious groups are not unified, and they lack a single leader who could guide the transformation of postwar Iraq into an Iranian-style Islamic republic. A reinvigorated secular middle class will help check the power of the Islamists in Iraq.

There are many risks in the project of building a politically stable Iraq with a decent government and a more tolerant and inclusive Iraqi society. Having deposed the Baath regime, it is now the responsibility of the United States to assure Iraqis that their desire for a state that serves all its people will prevail. ●

Yitzhak Nakash teaches Middle East history at Brandeis University. He is the author of *The Shi'is of Iraq*, reissued with a new introduction in 2003. An earlier piece on Iraq that he wrote for *Dissent* appeared in the Fall 1998 issue.

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Democracy Confronts The Superpower

The New Global Politics

Suzanne Nossel

THE CONTROVERSIES over the invasion and now the reconstruction of Iraq have exposed a transformation underway in the relationships among states. The diversity and passion of the voices in the debates, the departures from traditional patterns of allegiance among countries, and America's failure to win support from longstanding allies all point to a new reality: the geopolitical system, as never before, is displaying democratic features associated more commonly with national states than with global society.

This democratization of international politics has implications for how the United States behaves in the world. As weaker countries become more ready to combine and oppose what they see as an errant superpower, U.S. policymakers may be inclined to suppress this new pluralism and preserve the more familiar norms of power politics. After the triumph in Iraq this temptation has been strengthened, with the United States having demonstrated to the world that, dissenting views notwithstanding, America is still the boss.

Yet, as disputes erupt over the shape of postwar Iraqi reconstruction and the handling of other hot spots such as North Korea, the varied voices in the debates show no sign of quieting down. Over time, the democratic transformation may go from being a nettlesome impediment to certain U.S. objectives to a persistent constraint on our superpower status. Instead of resisting change, we would be wise to adapt, harnessing these emergent democratic forces in the international arena so that they voluntarily support, rather than undercut, American leadership.

A Funny Thing Happened in the International Forum

The Iraq debate underscores this new dynamic. When the administration of George W. Bush approached the United Nations in September 2002 to seek support for military action to disarm Saddam Hussein, few doubted that it would ultimately get its way. As the world's only superpower, with unrivaled military and economic strength, having just shown in Afghanistan its ability to topple corrupt penny-ante regimes without breaking a sweat, the United States looked unassailable. The unanimous resolution backing the reinstatement of weapons inspectors in November 2002 reinforced the idea that the United States could bring the world around to even highly controversial positions.

Four months later, the world was held rapt by a bitter feud between the United States and a handful of key allies who favored an Iraq invasion and France, Germany, Russia, China, and others, who demanded continued weapons inspections instead of war. Countries whose support the United States had taken for granted—such as Turkey, Mexico, and Chile—publicly debated where to stand. Tactics that in the past had always shored up wobbly backing from friends did not seem to work. Rather than resigning themselves to the inevitability of a war that the U.S. president had all but vowed would occur, citizens around the world took to the streets to protest against invasion.

What many predicted would be a "unipolar moment" for the United States—when its unmatched force was coupled with an unprecedented willingness to use it—turned into one of the most multipolar moments in history. Countries big and small had speaking parts in the Iraq debate. Reporters traveled to Guinea,

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Angola, and Cameroon to cover the story of whether the world's superpower would get its way. The State Department's initial list of allies in the Iraq War was instructive. Our North American Free Trade Association partners, Canada and Mexico, were absent, as were all but three of the thirty-four members of the Organization of American States. Conversely, all but three of the European Union candidate countries flouted France and Germany to join the United States and Britain. The overarching pattern was that there was no pattern: neither the dissolution of the West, the clash of civilizations, regional geography, political affiliation, nor historical alliances explain the alignment. Ultimately, even small and powerless countries made their own decisions.

This turn of events surprised Washington and the world. In early March, British foreign secretary Jack Straw cautioned that Europe would "reap a whirlwind if we push the Americans into a unilateral position." The Bush administration insisted that by defying its wishes, the United Nations would render itself irrelevant. Well into the debate, many diplomats on all sides believed the United States would somehow pull it off; in the end, they thought, the world would not risk the wrath of a superpower scorned. Yet France, Germany, Russia, and China stood firm, backed by dozens of smaller countries.

The Democratization of Geopolitics

Regardless of how history judges the legitimacy of the Iraq confrontation, the realignments witnessed en route to Baghdad reflect a new dynamic in international relations. The proliferation of independent voices in global affairs is manifest in all parts of the world and on a widening array of issues. The argument over who plays what part in postwar reconstruction in Iraq suggests that this phenomenon is here to stay. Despite the dazzling display of U.S. military prowess in their backyard, six Iraqi neighbors met within a week of the fall of Baghdad to criticize the United States and announce their opposition to American proposals to lift UN sanctions on Iraq. Whatever happens in this instance, their example is sure to be followed.

The international system is not a democracy, nor will it ever be. There is no world government or global constitution. Most countries consider international law to be hortatory more than binding. World leaders aren't elected. The UN Security Council is profoundly undemocratic, with five unelected countries holding permanent seats and veto power. The General Assembly—where China and Tuvalu wield equivalent votes—is participatory but hardly fair. Many UN delegations represent dictatorships.

And yet the international system is more heavily affected by democratic influences than ever before. Backroom deals are giving way to more open debates in the Security Council, the newspapers, and the airwaves of CNN, the BBC, and al-Jazeera. In developing and democratizing countries, the masses are less ignorant, quiescent, or afraid than they once were. Power elites still shape world affairs, but they no longer control them so completely as before.

This shift represents a culmination of forces operating at two levels: at the micro level, democratic forces *within* states are jostling to influence their governments' positions in an ever growing number of countries. At a macro level, there is greater democracy *among* states. Increasing numbers of countries are taking positions free from the overweening influence of a superpower patron. With the disintegration of colonial spheres of influence and the cold-war-era blocs, the countries of Latin America, Eastern Europe, Africa, and Southeast Asia are increasingly free to frame their own positions.

The tilt toward democratization does not guarantee global good government. The newcomers to international debates are for the most part not espousing democratic values so much as articulating their own perceived self-interest. As in national polities, international democracy remains subject to power relations, manipulations, and to the influences of money, corruption, and hubris. Whether a more democratic world system proves to be a better one remains to be seen. But it unquestionably entails different norms of conduct, standards of judgment, and ways of getting ahead than did the old world of great-power politics.

A major force driving this change is that the countries party to international controver-

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sies such as the Iraq debate are, increasingly, themselves democracies. Turkey is a case in point. The U.S.-Turkey relationship has long rested on a deal between the countries' leaders: the United States offered foreign aid and military defense in exchange for Turkey's support for American global and regional goals. In 1991, when Turkish president Turgut Ozal bucked public opinion and risked economic crisis and military retaliation by supporting the United States in the Gulf War, no one was surprised. When the United States called, Turkey answered; this was how power politics worked.

In the fall of 2002, after decades of encouraging Turkish democracy, the United States saw its steadfast supporter back away. Although Turkey's reliance on the United States had not changed, newly elected prime minister Recep Tayyip Erdogan faced domestic political challenges that undercut his willingness to spend political capital for an unpopular U.S. cause. As the world watched, Washington offered billions of dollars in aid to induce Turkey's leaders to extend basing privileges to the U.S. military. When the government came around, the Turkish Constitution—modeled in part on the American—necessitated a parliamentary vote of approval, and a controlling minority in Parliament tempted fate and voted the other way.

This outcome belied the idea that only a superpower such as the United States can afford to let domestic politics influence its foreign policy. Germany's position on the Iraq War was similarly dictated by domestic political imperatives. Chancellor Gerhard Schroeder played to his people's antiwar sentiment in the face of a tough reelection fight. Domestic politics exerted an unexpected pull on lesser players, too. The Bush administration voiced confidence that Mexico, the closest thing to a client state the United States still has, would stand by its side. But Mexico's frustration with its failure to secure an immigration accord or other benefits of the special relationship promised by Bush to Mexican president Vicente Fox ultimately put its vote out of reach. In Chile, too, President Ricardo Lagos refused to spurn popular opposition to the war, defying predictions that a pending U.S.-Chile free trade pact would compel him to toe the U.S. line.

Democratic forces are also increasingly at play in the relationships *among* states. The multilateral system—by its nature a counterweight to power politics—has come into its own, with participatory bodies steadily gaining influence. Quietly and without much controversy, inter-governmental forums now make decisions about the environment, trade, health and medicine, the regulation of financial markets, the restoration of failed states, intellectual property protection, and other issues. Although these bodies often fall short of expectations, in most of the world their failings are seen as cause to strengthen, rather than do away with, the organizations themselves.

Global forums such as the UN are themselves becoming more democratic. UN membership has more than tripled since its founding in 1948. NATO and the European Union will expand next year. And these organizations' member states are also behaving more independently. Like teenagers coming of age, countries are surprising the United States and other traditional powers with their newfound autonomy. During the Iraq debate, incoming EU members Poland, Hungary, and the Czech Republic joined Britain, Spain, and others in supporting the U.S. position on Iraq, confounding French president Jacques Chirac. Undecided members of the UN Security Council, heavily courted by both sides, declined to kowtow to either.

Countries are flaunting their independence on other issues, too. Over U.S. objections, most American allies have signed the International Criminal Court treaty (itself an example of democratic institution building gone global), and few have given in to U.S. demands to exempt American troops from its jurisdiction. The "like-minded" group that championed the court reveals the new go-your-own-way disposition: it includes Australia and Canada but not the United States; Argentina but not Brazil; Germany but not France; Denmark but not Sweden. Though the Bush administration is championing a Free Trade Area for the Americas, Argentina and Brazil now oppose the alliance, putting the administration's goal in doubt. On an array of

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international issues, "Which side are you on?" is becoming an open question.

Roots of Democratic Transformation

The roots of this trend run deep. Over the past fifty years, the number of peoples enjoying a democratic form of government has more than doubled. It makes sense that people living in democracies would press for a more democratic global system. People raised with the ideals of free speech, self-determination, and the need for constraints on power at home naturally seek to extend these concepts into the realm of foreign affairs. Why should democratically elected leaders, answerable to their electorates, consider that accountability to stop at their borders?

For centuries, great-power politics ruled the globe. Two hundred years ago Austria, Great Britain, Prussia, and Russia were balanced against Napoleonic France. A century later, Great Britain, France, and Russia allied to contain Germany. During the cold war, the superpowers faced off. All along, the poverty, instability, or weakness of smaller countries rendered them mostly voiceless. But as the cold war thawed, democratic currents flowed more freely. During the 1991 Gulf War, the United States stressed coalition diplomacy in its fight to drive Iraq from Kuwait. Europe unified itself, with countries of different size and strength functioning on nominally equal terms. The UN finally went beyond offering a stage for cold war theater, and enjoyed a renaissance under Secretary General Kofi Annan.

For a time, there were few outright confrontations between these rising democratic influences and U.S. power. On many matters involving the use of force, such as Bosnia and Kosovo, the superpower stayed its own hand until the world clamored for U.S. intervention. With the United States exercising self-restraint, the rest of the world felt less of a need to counterbalance it. President Bill Clinton and his top aides voiced respect for the UN, dampening resentment toward the United States. When charged with negotiating a cut in U.S. dues to the UN, Ambassador Richard C. Holbrooke recognized that such an unpopular measure could not be imposed as a *diktat* and worked to convince both UN members and the U.S. Congress to compromise their demands. Meanwhile, some of the world's fledgling democracies, in Eastern Europe for example, were still finding their legs, keeping quiet long enough to be admitted to NATO and the EU.

Yet tension brewed. The United States refusal to pay its full UN dues was deeply resented. The Bush administration's rejections of the Kyoto Protocol on Global Warming, the International Criminal Court, and the Anti-Ballistic Missile Treaty were criticized as unilateral and illegitimate. Iraq pushed the conflict over the brink. The Bush administration misread and mishandled the democratic forces it met on the world stage. Whereas Clinton had a wary respect for a strengthening multilateral system, Bush ignored and undercut it, announcing a doctrine of preventive war predicated on an unapologetic conception of American exceptionalism and power-driven *realpolitik*. A coalition of the unwilling decided to show the United States that it would no longer cower before a would-be hegemon. This objective, more than any sympathy for the Iraqi regime, fueled global popular opposition to the war.

The tide of democratization in international relations will likely gain momentum as more countries become democracies and demand a voice in global issues. As they grow more affluent, educated, and informed, democratic peoples will become better equipped for debate on international affairs. The informal coalitions protesting the Iraq War showed how the Internet and other new methods of communication among activists and nongovernmental organizations can amplify small voices in foreign policy debates. In one sense, the United States has been hoist with its own petard. Having worked to seed democracy in far-flung corners, the United States now sees the fruits of its efforts impinging on its prerogatives as a superpower.

The Bush administration's response has typically been to try to sidestep or override the democratizing forces in the international system. The contrast with how a democratically elected leader would behave in a domestic context is striking. The administration's dismissals of the Kyoto Convention, International Criminal Court, and ABM Treaty and its un-

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willingness to proffer alternatives showed a willful disregard for how America is perceived by those it wants and purports to "lead." A president or governor who similarly dismissed pressing domestic concerns with the environment, criminal justice, and gun control would risk political oblivion.

The administration's rhetoric has reinforced the impression of its impatience with others' views. From threats of UN irrelevancy to Secretary of Defense Donald Rumsfeld's contemptuous reference to "old Europe" to the administration's ham-handed threats against Mexico, the administration's messages seem calculated to insult and intimidate rather than to inspire support.

This failure to craft international messages designed to attract broad support is more than just flat-footed diplomacy. It marks a failure to grasp what global leadership today requires. Bush has derided "focus group" diplomacy when it comes to making foreign policy, but would never contemplate a major domestic campaign without it. That's because at home, it's accepted that the people will inevitably have their say over an administration's policies and the length of its term in office, whereas internationally the importance of military strength is still thought to carry the day. The administration believes that this difference reflects not just the way things *are,* but the way they *should be*. Bush does not believe in a more democratic international arena.

Tyranny of a Misguided Majority

The administration has several good reasons for being skeptical about more democratic international relations. At one level, it is natural that the world's most powerful country would strongly resist efforts to constrain national sovereignty. If, as demonstrated in Iraq, the United States is more than capable of "going it alone," why should it be patient with the skepticism and petulance of others? Further, Americans, who have long struggled with the problem of the tyranny of the majority at home legitimately worry that a more democratized world system may produce the tyranny of the majority writ large. In *A Dangerous World*, Daniel Patrick Moynihan recounted his experiences as U.S. Ambassador to the UN in the late 1970s when the UN General Assembly passed its notorious "Zionism is Racism" resolution. Americans are right to fear the noxious conditions that Moynihan described: a zealous, knee-jerk anti-West, anti-Israel and anti-Semitic mob of nations blind to their own self-righteous hypocrisy. The periodic election of rogue states to UN leadership posts feeds the view that the international community cannot be trusted. Thus, the administration dismissed the tidal wave of anti-Americanism in the run-up to the Iraq War as, in Fouad Ajami's metaphor, "road rage," believing that "no great apologies ought to be made for America's 'unilateralism.'"

But the Iraq debate showed that although the international community's behavior sometimes warrants disdain or even contempt, the administration can neither ignore nor override it. The last century showed that democracy could triumph in even the most unlikely quarters—such as South Africa and Eastern Europe—where powerful, well-armed, and ruthless governments ultimately capitulated to peoples bent on having a say over how they were ruled. The same will likely be true on the international stage. Having tasted greater autonomy and influence, smaller countries will not give it up without a fight.

Indeed, unilateral U.S. behavior may backfire, strengthening the hand of democratic forces. As Chilean diplomats acknowledged after the fact, had the major powers had a common position on Iraq, the smaller players would not have mattered. It was the rift among permanent Security Council members that freed smaller countries to take sides. If current trends continue, with important countries shaping their foreign policy by the goal of counter-balancing the United States, such fissures will be frequent, and the positions of smaller countries will be closer to the fore.

Beyond that, the United States must not lose sight of the fact that the world it confronts is in large part one of its own design. In international forums, by and large, the forces that dominate are not dictators and troublemakers but a loose constellation of fundamentally liberal open societies—mostly democracies or soon-to-be democracies—both western and not, that have joined together in a fundamentally peaceful system. In this universe, radical,

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violent, and threatening elements—the likes of Osama bin Laden, Saddam Hussein, Slobodan Milosevic, and Muammar Qaddafi—are for the most part seen for what they are and quarantined either formally or informally. Though deeply flawed, the system can usually be made to work in favor of the United States when the stakes are high. Although the countries of the world may not agree on how imminent particular threats are, or on how to handle them, the broad consensus on what constitutes a threat contrasts sharply with the past century, when global political values were so diverse that fascist and communist repression could win genuine support.

A U.S. policy built on containing democratizing forces is unsound for another reason: the American people will not accept it. Throughout the Iraq debate domestic critics voiced misgivings about the administration's arrogance. Plenty of Americans embraced the administration's devil-may-care bravado, but a significant portion were nervous about the United States antagonizing friends and isolating itself. Several Democratic presidential aspirants picked up on this theme, sensing its popular resonance. The disjunction between democratic norms at home and a U.S. foreign policy that showed contempt for differing views led to a drop in Bush's approval rating as his diplomacy imploded.

Democratic Leadership on the International Stage

Instead of trying to escape the forces of international democratization, the United States should acknowledge that a broadening circle of countries will insist on a say over global issues, and it should change its brand of leadership accordingly. Although its military might remains unchallenged, the Iraq debate showed that without the ability to rally the world to its side, using that might will become trickier. More support would have made the Bush administration's task in Iraq far easier. Without the backing of Qatar, Kuwait, and Saudi Arabia, the job would have been nearly impossible. Indeed, every U.S. military triumph of the past decade—Iraq, Bosnia, Kosovo, and Afghanistan—relied on short-legged tactical air and ground power launched from the territories of allies.

The Bush administration has said it assigns high priority to preventing the rise of a "peer competitor," presumably China. But already China is matching or outpacing the United States in its trade relationships with nearby nations. The success of these relationships, relative to America's, will eventually determine China's ability to challenge U.S. power. Here, too, maintaining the goodwill of smaller nations matters greatly. In a situation where most countries of the region enjoy closer ties to China than they do to the United States, America's ability to defend its interests in the region—for example, Taiwan—could well be compromised.

Relationships between the United States and other contending powers and smaller countries will only grow in importance. Global leadership will become less like stewardship in a family, where young children follow their parents because they depend on them for survival, and more like political leadership within a domestic democracy. The United States must refashion itself as the global leader of choice—a country that others will follow not just because they have to but because they want to. The United States should apply to the international arena some of the ingredients for success in democratic politics. Instead of relying on fiat, it will have to learn how to campaign on behalf of its priorities, convincing others to side with it voluntarily.

In his book *The Paradox of American Power*, Joseph Nye refers to such persuasive authority as "soft power," defined as "the ability to set the political agenda in a way that shapes the preferences of others." But the concept of "soft" is both ill-named—it sounds much too indefinite and squishy—and incomplete. Nye writes well about the appeal of America's culture and values. Although these will certainly play a key part in appealing to people around the world, political wheeling and dealing are essential too. Politics in a more democratic international system will be every bit as rough-and-tumble as in the era of superpower domination. The point is that the required tactics will be different.

A more democratic international system will be closer to the cacophony, open horse-

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trading, and emotionalism of a developing democracy than to the courtly rhythms of the U.S. Senate. Long-held alliances will shift according to strategic and economic imperatives. Challenges to leadership—tacit "votes of no confidence"—may come at any moment, over any issue that gains enough momentum. The United States will have to monitor closely the tides in international opinion, its own political strengths and vulnerabilities, and the views both of its close allies and the broader pool of "swing votes" that might side with or against it at any time.

Leadership Qualities

There are four key traits that will qualify leaders in the emerging more democratic international system. Some are traits the United States already embodies and should take care to maintain; others it will need to develop. They are (1) military and economic strength; (2) the willingness and ability to tackle the most serious global problems; (3) attentiveness to constituency relations; and (4) legitimacy. As in domestic politics, an excess of one quality unleavened by others can transform assets into political liabilities. To much of the world, in the absence of legitimacy and willingness to listen, Bush's resolve seems more frightening than admirable. Displaying the right combination of traits, in the right balance, is essential.

Strength. On the global stage, power breeds power. Just as the candidate with the biggest war chest is perceived as a potential winner, U.S. military and economic strength make it the presumptive frontrunner in international contests. Countries freely choosing which side to support in international debates will still take account of who has the means to protect or harm them. The maintenance of a powerful military will be no less essential to U.S. leadership in a more democratic system than in a world ruled by superpowers. Europe's choice to scale back its military strength would prove a serious impediment should it ever try to challenge American leadership. In contrast, China's emphasis on building its military has reinforced the idea that it will someday compete as a superpower. Military and economic power is also vital as a source of "pork"—favors, handouts, and bargaining chips that can be used to win support. Populations that take a keener interest in their own countries' foreign policy will be watching to make sure that they get something in return for taking risks or controversial stands that favor the United States.

Willingness to do the dirty work. Many nations have faulted the Bush administration for its reluctance to address issues that they consider urgent. When there were two superpowers, each could shift blame onto the other. But just as a city mayor who campaigned on the revitalization of the waterfront is also held responsible for garbage collection, a lone superpower claiming global leadership no longer has the luxury to pick and choose its own priorities.

On many issues, the Bush administration has been seen as indifferent or afraid to act. Its sluggishness in restarting Israeli-Palestinian peace talks until recently eroded its credibility, allowing the United Kingdom and the rest of the EU to seem responsible and engaged by contrast. For some countries, this failure became an excuse to decline to support the U.S. on Iraq. On AIDS, poverty, and inequality, too, the United States has been blamed for not showing leadership. Similarly, the EU's inaction in Bosnia and Kosovo—problems that were seen as Europe's to solve—compromised its claim to global leadership. The Chinese government's inward focus and ossified structures, exemplified by its unwillingness to face up to the danger posed by SARS, has kept it from being seen as a global leader.

The United States does not have to take on every problem. As in domestic politics, the key is identifying potential "wins." But the United States must from now on factor international as well as domestic opinion into these choices. The Clinton administration rightly assessed that the late 1990s conflicts in Africa were ones in which UN involvement would be broadly perceived as the right course. During the East Timor crisis of the same period, Australia demonstrated that regional powers can successfully shoulder what might otherwise be superpower burdens. Leadership will fray where it is spread too thinly. We will have to judge what issues have become sufficiently pressing that they can no longer be ignored,

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and we will be judged by the judgments we make.

Responsiveness to a global constituency. A democratized international system will give new meaning to Tip O'Neill's observation that "all politics is local." Already, when Americans go to the polls, peoples around the world feel as if their leader is being selected. As the 2000 election drama in Florida unfolded, the UN membership was mesmerized, cutting meetings short so delegates could watch the latest counts from Palm Beach and Miami-Dade counties.

The United States should begin viewing the world population more as it does American voters and should look on national governments as the equivalent of state and local leaders. Some U.S. presidents have had a natural affinity for global politicking. John F. Kennedy's famous appeal to the beleaguered people of Berlin won the United States love and loyalty that lasted decades, and Clinton's many trips overseas, including the first ever presidential visit to Africa, nodded to the idea that his electorate extended well beyond American citizens.

Like people, nations have egos, inferiority complexes, suspicions, ambitions, fears, and irrational impulses. As with voters choosing a candidate, these factors have every bit as much to do with a country's stance on policy issues as do reason and power politics. By informing Russian President Vladimir Putin that the ABM treaty was dead irrespective of what Russia thought and wanted, the United States undercut Russia's self-perception as a power on the road to recovering its international stature. In taking South Korean president Kim Dae Jung by surprise when announcing a sudden policy shift on North Korea, Bush humiliated the leader and his people. By ignoring Mexico's request for a migration accord, the United States was perceived to take its old friend and neighbor for granted. In spurning Canadian and Chilean compromise proposals for the Iraq stand-off without even a "thank you," the Bush administration slammed the door in the face of friends who stopped by to offer help. Because they took place in public, these slights hurt all the more.

Legitimacy. The United States will not remain the chosen leader of a democratic international system unless it begins to establish international legitimacy for its actions. As in domestic democracies, leadership that is seen as self-interested, corrupt, or hypocritical will be vulnerable to attack. The rise of democracy around the world has led peoples to expect the powerful to act with a certain deference to those affected. Populations have been schooled (often with American textbooks) to believe that absolute power corrupts absolutely and that the weak need protection from the strong. As these populations pay closer attention to the dealings among states, the long-standing norms of power politics will come under increasing critical scrutiny.

Around the world, people questioned how the United States could justify taking military action in Iraq while dealing diplomatically with a more serious threat in North Korea. It may be clear to foreign policy elites why the two countries are being treated differently, but the distinction troubles citizens of democracies who think the international system, like their home governments, should offer predictability, consistency, and even equality. That Western countries are allowed to possess nuclear weapons while Eastern and Southern ones are not; that gross human rights violations are excoriated in China but ignored in Russia; that some prisoners of war are protected under international conventions while others are not will give rise to growing criticism of those who call the shots in a system rife with double standards. Granting lucrative reconstruction contracts for Iraq to U.S. firms without a bidding process reinforces the suspicions of those who saw ulterior motives in the U.S.-led invasion.

To prevent perceived crises of legitimacy from undermining U.S. power, we must stop viewing international norms as thorns in our side. For better or worse, international "law" is malleable enough that a wide range of actions can be justified within it, provided we take the time to try. Too often the United States, rather than putting forward its best case, has dismissed the relevance of legitimacy entirely. A more democratized international system will not give up on the idea that power should be checked and balanced through multilateral organizations. The United States must cede a

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certain amount of autonomy in exchange for the greater latitude it will enjoy over time if the weight of free international opinion is on its side. Norms like consistency and equality need not take precedence over all other considerations, but when they are trumped, the decision must be made carefully and explained.

The Refashioned Superpower

A superpower in a democratic system is like a superhero stripped of some powers. Increasingly, the hegemonic state cannot dictate to others, garner support by snapping its fingers, or brush away obstacles with the wave of a hand. Rather than issuing edicts from on high, it will—more often than not—have to traipse from capital to capital, making its case, listening to others, and cobbling together support. It will have to clean up after others, accede to international norms, and even sacrifice some of its own power in deference to others' views and needs.

But a more democratic system offers some rewards for the United States. As the world's most robust democracy, the United States is well equipped for the challenge of mobilizing voluntary global support. It has broader economic and military ties, a stronger network of diplomatic posts, and a more vibrant and appealing culture—the global equivalent of charisma—than any other country. The only thing holding the United States back in this new, more democratic world order is its own tendency to resist rather than capitalize on the changing tides. Only once it has accepted the ongoing transformation can the United States get down to work bringing the formidable political know-how it has built at home to the business of international affairs. ●

Suzanne Nossel was senior adviser to Ambassador Richard C. Holbrooke at the U.S. Mission to the United Nations and writes frequently on foreign affairs.

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Questioning Halabja

Genocide and the Expedient Political Lie

Leo Casey

On a late March morning fifteen years ago, as the war between Iran and Iraq was winding down, the Iraqi army began an artillery barrage on Halabja, a Kurdish city situated about fifteen miles from the border with Iran. The people of Halabja first took that attack, and the subsequent bombing by the Iraqi air force, as a routine matter, the everyday consequence of living in a stronghold of a Kurdish Peshmerga militia then allied with Iran. But as they gathered in their shelters, it quickly became apparent that there was something dreadfully different about this bombardment. Heavy, dark yellow clouds formed close to the ground, and overwhelming smells, a mixture of sweet apples and garlic, followed by an odor of rotten eggs, pervaded the air. Birds and animals began to expire, and as the clouds gradually permeated the shelters, people became ill, some vomiting, some finding it hard to breathe, others experiencing skin burns and sharp, stabbing pains as their eyes and noses began to bleed. In panic, with many already dying and others blinded or paralyzed, the people of Halabja fled their city. Behind them lay thousands of dead (estimates range from 3,200 to 5,000). Many who escaped bear grim physical injuries from that day: blindness and major respiratory and skin diseases, cancers, and, in the next generation, congenitally malformed infants.

The bombing of Halabja with chemical gas was the opening salvo in what the Baathist Iraqi regime called its Anfal campaign, a term taken from the title of the eighth sura of the Quran, which calls upon Muslims to "strike terror into the hearts of the enemies of Allah." Human rights organizations have another name for that campaign: genocide. Although it is impossible to determine the exact number of Kurds who were annihilated in the two-year period during which the Anfal was waged, estimates range from a conservative low of 50,000 to Kurdish figures of 182,000. Kurds were forcibly removed from traditional villages, imprisoned in concentration camps, tortured, raped, and forced into exile. There was a total of forty known incidents involving the Iraqi use of chemical gas on the Kurds, including Halabja.

This essay is not an account of Halabja and the Anfal. Those events have been fully documented in the Human Rights Watch book *Genocide In Iraq* and told in painful detail in many other places. Rather, the story told here is about the efforts to deny the Baathist regime's use of poison gas on the Kurds, efforts that began as soon as the world first learned of Halabja and that have continued to this day. It is a tale of the politically expedient lie, in service of a denial of genocide.

The Evidence

I will begin with a brief summary of the volumes of evidence regarding what took place that day fifteen years ago in Halabja, as well as in other poison gas attacks on Kurdish civilians, and who was responsible for what happened. As soon as word of the gassing reached Iran with the fleeing residents of Halabja, the Iranian government brought international news media to the scene, and film of the devastation was soon aired on newscasts around the globe. Those horrifying scenes made Halabja into the Guernica of the Kurds, symbolizing the entire Anfal campaign of annihilation.

As powerful as the film of Halabja is, it is only a small portion of the evidence. In hundreds of eyewitness interviews conducted over the next few years, survivor after survivor identified the source of the gas at Halabja (and at other sites) as Iraqi military aircraft that flew low enough so that their markings were visible

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from the ground. Beginning in October of 1988, seven months after Halabja, a series of forensic investigations, some sponsored by Middle East Watch (now the Middle East division of Human Rights Watch) and Physicians for Human Rights and others organized by independent medical scientists, undertook medical examinations of survivors, conducted tests for trace chemicals on soil samples and bomb fragments, and performed autopsies of exhumed bodies. The results of a number of these studies were published in peer-reviewed scientific journals. Based on these studies, scientists concluded that the victims of Halabja and other sites had been exposed, in the words of medical geneticist Christine Gosden, "to the highest doses of the most potent cocktails of chemical and biological nerve and mustard agents ever used against civilians." The nerve gases sarin and tubin, as well as mustard gas, are known to have been used, and there is good reason to believe that the nerve agent VX and biological weapons such as anthrax and mycotoxins may also have been employed at different times.

The Origin of the Denials

During the Gulf War and the popular uprisings that followed it, significant stores of Iraqi Baathist government documents and tapes were seized, mostly by the Kurdish Peshmerga. Ample documentation of the plans and the implementation of the poison gas attacks was found, including a tape of a particularly damning speech by the chief architect and executioner of Anfal, Ali Hassan al-Majid. Hassan says of the Kurds, "I will kill them all with chemical weapons. Who is going to say anything? The international community? Fuck the international community and those who listen to them!"

Every group that has examined this question—the UN, Human Rights Watch, Amnesty International, Physicians for Human Rights, the U.S. Senate Foreign Relations Committee, and others—has come to the same conclusion: that the Iraqi Baathist regime used poison gas on its Kurdish population during the Anfal campaign, in Halabja and at other sites. There simply is no reasonable doubt.

Yet no sooner had the pictures of the dead of Halabja appeared on television screens than the campaign to deny Iraqi responsibility began. The initial impetus for these efforts came from within the U.S. government. To understand how this came to pass, one must examine the Iraq policy of the United States during the 1980s.

Following the Iranian Islamist Revolution, the seizing of hostages from the American embassy, and the Iraqi invasion of Iran, Ronald Reagan's administration entered into "an enemy of my enemy" alliance with the Baathist state: it became an American proxy in its war with Iran. When Iran temporarily gained the upper hand in the war, the United States provided Iraq with "detailed information on Iranian deployments, tactical planning for battles, plans for air strikes, and bomb assessment damage," a *New York Times* investigative report concluded. German, British, and American corporations sold Iraq military hardware, arms technology, advanced computers, and key ingredients for the manufacture of missiles and chemical and biological weapons, with the active approval of the U.S. government, according to PBS *Frontline*, *Washington Post*, and *Newsweek* reports. Among the items purchased by Iraq, these reports determined, were American-built helicopters that were used, U.S. government officials concluded, in poison gas attacks on the Kurds. The Reagan State Department also approved, before being overruled by the Pentagon, the sale to Iraq of 1.5 million atropine injectors, a drug used to counter the effects of chemical weapons.

The first reports of the use of chemical weapons by the Iraqis referred to battles against Iranian troops, and the U.S. government attempted to shift the blame onto the Iranians. As the evidence mounted, and especially after Halabja, the Reagan administration finally issued public condemnations of the use of poison gas. At first, the statements criticized both Iraq and Iran; eventually, they specifically cited and decried the Iraqi use of poison gas against the Kurds. But at no time, the *New York Times* reports, did the Reagan administration end the top-secret program through which more than sixty officers of the Defense Intelligence Agency provided the Iraqi government with intelligence information and battle plans that

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facilitated the use of chemical weapons. Instead, Reagan and then the first Bush administration officials fought back congressional efforts to place sanctions on Iraq for its use of poison gas at Halabja. The Pentagon "wasn't so horrified by Iraq's use of gas," one of the veterans of the DIA program told the *Times*. "It was just one more way of killing people—whether with a bullet or phosgene, it didn't make any difference."

It was this context that produced the urtext of Kurdish genocide denial—a 1988 DIA report suggesting that Iran, not Iraq, was responsible for the use of poison gas at Halabja. This report, and a subsequent Army War College study and book incorporating its argument, provide one single piece of evidentiary conjecture for placing responsibility on the Iranians: film and eyewitness reports of the dead at Halabja indicated that their mouths and extremities had turned blue, and such symptoms were consistent with exposure to blood agents using cyanide, which, it was argued, only the Iranians were known to use. None of the authors of these documents, the most notable of whom was Stephen Pelletiere, the senior CIA political analyst of Iraq during the Anfal campaign and later professor at the Army War College, had any expertise in medical and forensic sciences, and their speculation doesn't stand up to minimal scrutiny. To begin, it is not true that Iran alone used blood agent weapons. A 1991 DIA report concluded that "Iraq is known to have employed . . . a blood agent, hydrogen cyanide gas... against Iranian soldiers, civilians, and Iraqi Kurdish civilians." Moreover, cyanide gas is not very effective in the open air, and could not have caused, by itself, the widespread devastation at Halabja. It is far more likely that, as forensic studies of the survivors and soil of Halabja indicate, the poison gas cocktail had as its main components a combination of mustard gas and the nerve gases sarin and tubin. The appearance of cyanide symptoms could have resulted either from the decomposition tubin undergoes when it is used or from the inclusion of hydrogen cyanide in the poison-gas cocktail.

Even if one were to ignore all the other evidence of Iraqi state responsibility for Halabja, as Pelletiere and his co-authors do, and even if one were to suspend disbelief regarding the plausibility of the claim that Iran would use poison gas on a city held by its Kurdish allies and then bring international news media to the scene to report on it, these documents are unconvincing. But in the fall of 1988, this most spurious of arguments served the purposes of a U.S. government alliance with Iraq against Iran, and so it was circulated with the authority of the intelligence apparatuses of the U.S. government behind it. And once this Pandora's box was opened, this expedient political lie gained a life of its own.

The Denials Spread

In August of 1990, Iraq invaded Kuwait. Faced with the prospect of Saddam Hussein gaining strategic control of much of the Persian Gulf oil reserves, American policy toward Iraq literally changed overnight: the Baathist state was now a threat. The poison gassing of the Kurds, which had been the most inconvenient of facts, suddenly acquired major propaganda value in the battle against the Saddam's regime. The U.S. government became a major broadcaster of the genocidal horrors of Halabja, and remains so to this day.

There would be no mention of the support given to the Baathist regime, no formal retraction of the disinformation that had been generated to cover that regime's crimes. This self-generated amnesia had unfortunate side effects. For just as the U.S. government turned on a dime, so too did those who oppose everything the United States does: in their eyes, once the United States saw the Baathist regime as an implacable foe, that regime acquired anti-imperialist legitimacy; once the United States proclaimed the fiendishness of the gassing of the Kurds, there was reason to question its authenticity. Because the U.S. government never formally disavowed the DIA and War College reports, these documents could now be cited as grounds for challenging the truth of the Iraqi campaign of genocide against the Kurds.

The Gulf War and its aftermath set the stage on which a second wave of denials of the Kurdish genocide would play itself out. There were many valid objections to this war, the biggest one being that the decision to go to war

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was premature, taken before less violent and destructive measures, such as economic sanctions, had a chance to work. But many in the reflexive opposition school of thought did not recognize the legitimacy of any efforts by the United States and its allies to undo the Baathist regime's annexation of Kuwait. Their arguments disputed the notions that the people of Kuwait had a right of self-determination—for them, Kuwait as a national entity was simply an artifact of imperialism—and that the Baathist regime was as morally depraved as the United States and its allies claimed.

Edward Said, the Palestinian-American academic and political activist, was one of the more articulate exponents of this view. Writing in the *London Review of Books* at the very moment the Baathist regime was launching its brutal suppression of the post–Gulf War uprisings of the Kurds and Shiites, Said declared that "[t]he claim that Iraq gassed its own citizens has often been repeated. At best, this is uncertain. There is at least one War College report, done while Iraq was a U.S. ally, which claims that the gassings of the Kurds at Halabja was done by Iran. Few people mention such reports in the media today." On virtually any other question one could contemplate, Said would dispute the conclusions of the American intelligence and military apparatuses in the strongest possible terms, yet when it comes to the question of the use of poison gas on the Kurds, discredited and transparently false CIA and DIA claims suddenly become trustworthy.

The Gulf War denials were relatively few in number. (In addition to Said, the other prominent denier was *New Yorker* writer Milton Viorst, who, after a one-day helicopter tour of Kurdish Iraq provided courtesy of the Baathist regime, decided there was no gassing of Kurdish civilians; he also offered the DIA and CIA claims as confirmation of his judgment.) But they planted the seeds for a third wave of denials that exploded on the scene during the buildup to the Iraq War. Significant segments of the movement opposed to the invasion of Iraq seized upon the old DIA and War College reports to cast doubt upon the Bush administration's arguments for regime change. Among the liberal and left opponents of the war, these documents were recycled in a Roger Trilling *Village Voice* column; in a number of columns in the liberal Canadian newspaper, the *Toronto Star*, one of which was reproduced on the progressive Common Dreams Web site; and on a number of alternative Internet Indymedia sites. Most of the left, though, shared the dominant view—perhaps best expressed by Dilip Hiro in the *Nation* and elsewhere—which was unequivocal in its condemnation of the Baathist campaign of genocide against the Kurds, of the U.S. government's alliance with the Iraqi state during the period of the genocide, and of the 2003 invasion.

Not to be outdone, critics of the war from the right joined in the denials, often with a nastier edge. Speaking from the floor of the House of Representatives, the far-right libertarian Representative from Texas, Ron Paul, asked his colleagues, "Are you aware of a Pentagon report studying charges that thousands of Kurds in one village were gassed . . . which found no conclusive evidence that Iraq was responsible, that Iran occupied the very city involved, and that evidence indicated the type of gas used was more likely controlled by Iran than Iraq?" Jude Wanniski, best known as the conservative economist who founded the supply-side school, published a barrage of memoranda from his Polyconomics Web site, citing Pelletiere and the DIA and War College reports. Wanniski included in his memoranda several lengthy e-mails from an Iraqi whose family was highly placed in the Baathist regime, who offered fulsome assurances that poison gas was never used by that regime. At the same time, Wanniski managed to dismiss Jeffrey Goldberg's March 2002 *New Yorker* article on Halabja and the gassing of the Kurds, which includes a number of survivor testimonials, on the grounds that Goldberg is "seriously biased" because he is a dual U.S.-Israel citizen.

Denials of Halabja from both the extreme left and the extreme right gained undeserved credibility as a result of a decision of the editors of the *New York Times* that stunned the human rights community: on January 31 of this year, as the debate over the looming invasion of Iraq reached fever pitch, the *Times* published a lengthy op-ed piece by Pelletiere, in

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which he reasserted the claims of the DIA and War College reports that he had had a hand in writing. Why the *Times* editors would publish a piece that could not withstand fifteen minutes of Internet research only they can explain, but the consequences of their action are undeniable: from that point on, the authority and legitimacy of the *Times* was used, again and again, to support the denial of Iraqi genocide.

Reflections

Political lies—and genocide denial is a political lie—are antidemocratic acts, rooted in the refusal to trust a citizenry to act appropriately on the truth. That simple observation can be lost these days, as we find ourselves caught in a debased political culture of spin, where the art of image control and deception often seems the most valued skill. Yet at a fundamental level, lies were told about Halabja and the Iraqi genocide of the Kurds because the authors of those lies, starting with agencies of the U.S. government, did not trust their audiences with the truth.

What is true of the U.S. government is also true, it must be said, of those in the movements against the Gulf War and the recent invasion of Iraq who denied Halabja and the genocidal campaign waged against the Kurds. The claim that one had to oppose every argument that the Bush I and Bush II administrations made for war against Iraq, regardless of its particular merit, went hand in hand with the contention that the American people could not grasp the full evil of the Baathist regime and still make an informed decision that war was not necessary to contain it. This is antidemocratic reasoning. The contempt for the political wisdom of the people revealed by such a posture made it that much more difficult for the meritorious arguments against the war to receive a full hearing.

But there is more at stake here than the failure or success of political arguments. Genocide denial leaves a stain of moral and political dishonor, for it is a political lie unlike other political lies. In a way, genocide denial reenacts the crime, seeking to erase the historical record of what was done—which is all that now remains of the murdered. The denier of genocide is, to use Pierre Vidal-Naquet's apt phrase, an assassin of memory.

For those who have studied the literature of Holocaust denial, the parallels with the denial of Halabja and the genocide of the Kurds are striking. The deliberate refusal to engage the evidence of what was done and who did it; the reliance upon conspiracy theories to dismiss such evidence en masse; the discounting of eyewitness, survivor testimony; the obsessive focus on a few minor details of the genocide and the fixation with the instrumentality of death, the gas; the changing of facts to fit the theory—this much and more mark both denials. But in one crucial respect, there is a difference: one cannot imagine finding the Holocaust denied in official U.S. government documents or on the editorial pages of the *New York Times*. Despite its powerful and lasting influence on our political culture, the experience of the Holocaust has apparently not immunized American discourse from genocide denial, any more than it kept the American government from establishing a strategic alliance with the authors of genocide.

Much remains to be done. ●

Leo Casey writes on politics, education, and international solidarity for *Dissent* and other journals.

The Human Rights Watch book *Genocide In Iraq* is available at www.hrw.org/reports/1993/iraqanfal/. Reports on a number of the forensic studies of gassing in Kurdish Iraq can be located at www.phrusa.org/research/chemical_weapons/index.html#2.

The War College report containing the original disinformation on the use of poison gas at Halabja can be found at http://fas.org/man/dod-101/ops/war/docs/3203/.

Documentation of U.S. government support for the Baathist regime at the time of the gassing of Halabja appeared in the August 18, 2002 *New York Times* article, "Officers Say U.S. Aided Iraq in War Despite Use of Gas" (or purchase from the *Times* archives at www.nytimes.com/), on the September 1990 Frontline program "The Long Road to War" (www.pbs.org/wgbh/pages/frontline/shows/longroad/etc/arming.html), and in the September 23, 2002 Newsweek article, "How Saddam Happened" (for purchase from the *Newsweek* archives at www.msnbc.com/news/NW-front_Front.asp).

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In last winter's design contest, Libeskind presented this image. He was the only one to put his design in a historical context or to enlarge the horizon beyond his own building. Was he pandering to our patriotic reflexes, or expanding our metaphysical horizons, or a mix of both?

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The City Rises

Rebuilding Meaning After 9/11

Marshall Berman

"Man," said Nietzsche, "the bravest animal and the one most inured to trouble, does not deny suffering per se: he wants it, he even seeks it out, provided it can be given a *meaning.*" A striking feature of New York life after the 9/11 attacks was the hunger of people to find meaning in it. I don't just mean intellectuals, who live for meaning. I mean a much larger body of everyday people who usually aren't much concerned with history, who are usually willing to let it be. All through the fall of 2001, these people stayed out and filled up the downtown streets and squares; they hung around the many clusters of "missing person" signs, and brought candles and stones; they resisted going home, and stayed up talking and arguing with total strangers through the nights even when they had to get up for work in the morning. Downtown in those days looked weirder than ever. There was this enormous wreckage at the tip of the island. Only those with connections (not me) could get close enough to really see it—though the newspapers and television flooded us with images of broken stone and twisted beams—but what we couldn't see loomed over us all. The site was lit by an immense array of floodlights, which could be blinding after dark, or else could make the streets nearby seem darker than ever, at a moment when darkness and emptiness felt so much like death. But once you got, say, half a mile from Ground Zero, lower Manhattan was more intensely occupied, more filled with life than it had been in years. Many of its grand old places were born again. My favorite was Union Square, which overnight became the kind of thriving agora it was said to have been a hundred years ago. Alas, Mayor Rudolph Giuliani, perhaps upset to see all this vibrant public space opening up, got the jitters, built fences, and closed the area down.

New Yorkers had many problems with the menu of militant meanings that emanated from the White House after 9/11. The bombing was surely an act of war, but who or what was the enemy? If the world was divided into "Us" and "Them," what was the identity of "Them"? Neither Osama bin Laden nor Saddam Hussein enjoyed much support in New York. But it was a strain for people flooded out by shock and grief to work through these emotions, when their heartbreak here and now was being used as a pretext for a war that clearly had been planned years ago.

In fact, 9/11 was, and still is, an enigma as well as a horror, and American bombs have done nothing to solve the mystery.

As winter began and our Afghan campaign abated, the question of meaning took on a new focus: what should be built at Ground Zero? The land is owned by the Port Authority, which shortly before 9/11 signed a 99-year lease with Silverstein Properties, one of the city's biggest developers. City and state created a Lower Manhattan Development Corporation (LMDC) to expedite reconstruction and preserve public memory and interest. Much of the public was skeptical and reserved judgment. But the next few months saw hundreds of meetings and forums, convened by many official and unofficial bodies: community boards, local libraries, public and private schools, churches and synagogues, newspapers and radio stations, bookstores and cafés, government agencies (of different and conflicting governments) and nongovernmental organizations, letters-to-the-editor pages, and forums online. Officials kept saying people were getting sick of all the talk, but in fact people kept filling whatever channels of expression were there, and even asking for more. One persistent note was fear that real estate developers and their

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politician friends would try to rebuild Ground Zero as ordinary commercial space, as if nothing had happened to the public at all.

JUST AT THE start of spring 2002, the LMDC unveiled an amazing sight: two beams of blue light, rising 1,400 feet, filling the "footprints" of the destroyed World Trade Center towers. These transparent towers of light offered all the heroic self-assertion of the WTC towers, without any of their oppressive bulk; they showed how the lyricism of the skyscraper's form could be separated from the office space that has defined its principal function. The LMDC warned us not to get too attached; indeed, the lights were soon turned off. But while they lasted they lit up New Yorkers' imagination. Couldn't we show the world, not only that we were still alive, but that we had the power to make modern life more radiant and thrilling?

A season later, this hope flared into rage. In July, when the LMDC presented six different "concept plans" for Ground Zero, they looked like totally conventional prospectuses for real estate. There was a shock: it was as if they had slapped us all in the face. Veteran architecture critic Paul Goldberger spoke bitterness: "Never underestimate the power of banality—at least, not in the world of New York real estate." Any grown-up New Yorker knew what he meant. And yet, in the streets, in newspapers and on television, in letters columns, on talk shows and Web sites, people were saying they *wouldn't stand for it*. They didn't have any clear alternative in mind, but they were united in their rage at the LMDC: its sin was *denial*—to act as if nothing had happened to our city, as if we had gone through nothing together. These people formed an amazingly intense and informed "public opinion"—a primary force in the life of democracy, according to democratic theory. Amazingly, the theory worked: the LMDC (under the leadership of Alexander Garvin, its director of design) responded to public opinion, took the great rage to heart, and threw out its whole first round of plans. It put itself in touch with some of the world's most brilliant and original architects, and set up a second round at a far higher level. Maybe a group like this could help New York generate something special.

Over the next several months, there was great excitement as nine different sets of plans, models, and videos were displayed in the Winter Garden at Battery Park City, just next door to Ground Zero. The totality of this work was more than I could hold in my head—I was glad not to be responsible for judging it. But I could see that a great deal of it was dazzling and fascinating. It looked like the trauma of 9/11 was being taken as seriously as it deserved.

No one design was overpowering, but many were thoroughly admirable. It was an embarrassment of riches.

Near the date of decision, suddenly static filled the air: the media plunged into an orgy of character assassination and negative campaigning that shifted focus away from the designs, and onto the supposedly sleazy character of the designers. Was this one a friend of death squads? Was that one a disciple of Nazis? Virtually overnight, a debris of malice piled up that threatened to bury the big questions that New York had to address about our future.

At last, early this year, Mayor Michael Bloomberg and Governor George Pataki, who rarely agree on anything, agreed on Daniel Libeskind, and pressed the LMDC to give him the job. Libeskind's life and work are full of contradictions. He is fifty-seven years old, a child of Holocaust survivors, a charter member of the "Class of '46"—a black-humor idiom coined to describe the children of people who lost their whole families to the Nazis, then found each other in displaced person camps, and had children together as soon as they could. He spent his childhood in Warsaw and Tel Aviv. Then, however, this homeless cosmopolitan became a homeboy. His family immigrated to New York and settled in the Bronx; he grew up in "the Amalgamated," a utopian co-op created by the radical Jewish labor movement; he got his education at the Bronx High School of Science (full disclosure: my old school), and at Cooper Union, America's most philosophical school of architecture. He developed into a special kind of Jewish man who flourished in postwar New York (Art Spiegelman is another): at once a promoter, a Broadway hotshot (whether on or off Broadway), and "the last man on earth," who carries

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all the nightmares of the twentieth century on his back.

While Libeskind was learning to be an architect, a number of architects (Peter Eisenman, his teacher at Cooper Union; the "Coop Himmelblau," from Vienna) began to imagine a distinctive form of public building that would be a monument to the twentieth century: a building that looks as if it has been bombed and is in the process of falling down, exploding or imploding, yet, Behold! it stands up. A generation ago, it was not at all clear if these buildings could be built (or if their creators cared). But there are some pretty impressive ones standing today, and Libeskind has done more than his share. I have not seen his 1999 Extension of the Berlin Jewish Museum, but several of my City College and City University students say that this building has been one of the great experiences of their lives. There, as elsewhere, Libeskind has inspired rapturous adoration, but also ignited furious derision. His enemies say he does nothing but transform all the real horrors of the twentieth century into gimmicks to promote himself. His politics have always moved in the orbit of the Jewish humanist left, yet he flaunts a plus-size personality that seems to step directly out of *The Fountainhead*.

In one of Libeskind's Ground Zero videos, we see the architect in a black suit and a black shirt, his gray hair blowing in the wind. It's a spectacular image. As a matter of fact, this visual—the middle-aged man in black, surrounded by the void but looking solemnly into our eyes—appeared first in Bruce Springsteen's music video "My City of Ruins," on his "WTC album," *The Rising*. Now it may be that Libeskind has never heard of Springsteen, or that, like me, he's a longtime fan. Either way, he is appropriating and trying to share the moral authority of this singer and this song. Once again, some people have vilified him as a thief, a cultural criminal. But in fact this mode of theft is the life of culture. Whether one has the right to steal depends on what one does with the loot.

What does Libeskind do? He addresses us from the lowest level of the site, inside what engineers call the "bathtub," close to the "slurry wall," the concrete wall that, when the towers were destroyed, kept the waters of the Hudson River from rushing in and flooding downtown Manhattan. Facing this wall, he tells us, "We are at the ground of being." The strength of the wall, he says, symbolizes the power of democracy under attack to stand and hold together. I felt instantly thrilled by this idea, by Libeskind's brilliance in finding a living image that could crystallize it, and by the directness and intensity with which he could speak to us.

Libeskind seems to have appropriated the great image of "the ground of being" from the existentialist philosopher Martin Heidegger. For most of his career, Heidegger was a Nazi; and he would have died rather than see his ideas embodied in anything urban or democratic. Indeed, he thought in order to get away from and negate cities and democracy. However, that might only go to show how little Heidegger grasped the true scope and depth of his thought. When I saw Libeskind at the slurry wall, invoking "the ground of being," I right away knew that he would get the job, and I thought he deserved it. At that moment I didn't care what his designed buildings were like. I mean, I thought they looked good, but also problematic—like his 1776-foot tower and his sunny (or maybe not-so-sunny) "Wedge of Light." (Actually, the buildings I liked best in this competition were the open lattice-work twin towers proposed by Rafael Viñoly and the group of architects who called themselves THINK.) Libeskind's real breakthrough post-9/11 is to urbanize and democratize the idea of "the ground of being." He has grasped something deeper and more serious than any building, something about what the whole process of rebuilding can *mean*.

It's easy to see how hostile critics could disparage all this as just one more promotional gimmick. But seriously, folks, isn't the whole idea of New York a gimmick? Aren't skyscrapers a gimmick? For that matter, what about the whole long great tradition of magnificent urban structures? (The ancient Athenians came to feel that the Parthenon itself was a gimmick; they put its sculptor and builder, Phidias, behind bars for cost overruns.) And speaking of gimmicks, what about American democracy? Who can deny the show biz and self-promo-

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tion in our Liberty Bell, our Constitution, our Statue of Liberty (which Libeskind works into his design), the sacred relics of our Fourth of July? As a matter of fact, our greatest modern thinkers, Marx, Nietzsche, Freud, said something like this about all our favorite ideas: they're all gimmicks, ideologies, magnifiers to puff us up and promote us beyond what we were meant to be. They're surely right; and yet that doesn't mean that these visions and values are wrong. We have the right to magnify ourselves, so long as we are honest with ourselves and each other about what we're trying to do.

AFTER THE TRAUMA of Ground Zero, the people of New York pushed themselves spontaneously (and unexpectedly) into the political ballgame. They made demands that not even the most practiced politicians or financiers could finesse away. They wanted building that would be truly public, that would recognize how much we have all gone through together; that could confront the existential dread at the foundations of so many of our lives; and that, after facing an underworld of suffering, could surge up and kiss the sky and blow everybody's minds. Daniel Libeskind, at once saintly and shady, projects a feeling both for existential urgency and for show-biz display. The weird cauldron of his character may make him just the right man to be here now. New York in the twenty-first century is a city whose life depends both on the culture and the entertainment industries. New Yorkers should be grown-up enough to affirm ourselves and to recognize one of our own. If we have learned anything, we should know that we're all in this company together, all actors and angels, and that we really want the show to go on, so we can move from Ground Zero to Ground One. ●

MARSHALL BERMAN is Distinguished Professor of Political Science at CCNY/CUNY.

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American Stories

Barbershop and *8 Mile*

Zelda Bronstein

If not for the Reverends Jesse Jackson and Al Sharpton, *Barbershop* might have been merely one of the most popular black films in American history. Written, directed, and produced by blacks, this tale of a day in the life of a barbershop on Chicago's Southside raked in $75 million in box office receipts (on a $12 million investment) last fall. But what gave the homespun comedy the cachet that propelled it onto prime-time talk shows and high-circulation editorial pages across the country were Jackson's and Sharpton's attacks on it for disparaging African American civil rights heroes and their demands that MGM, which produced it, cut the offending sequences or face a black boycott.

The reverends' appeals went unheeded by black moviegoers and MGM alike (the producers offered their apologies). Jackson and Sharpton got one thing right, though: *Barbershop* is a sassy film. What it affronts, however, is not the dignity of African Americans at large but the presumptions of various elites, black and otherwise.

Jackson and Sharpton picked up on one such challenge: the movie's sharp rebuke of self-aggrandizing, censorious political leadership. In the scenes that they wanted to cut, the barbershop's employees and patrons, all but one of whom are black, get into a noisy argument about African American political icons. The squabble is provoked by allegations made by Eddie, the senior barber in Calvin's Barbershop, and a graying veteran of the civil rights activism of the sixties and the seventies, that Rosa Parks, Martin Luther King, Jr., and, not incidentally, Jesse Jackson have gotten a lot more credit than they deserve; while the thousands of black men and women who, like himself, also sat in and went to jail have gotten a lot less. Eddie attributes Parks's celebrity to her association with the "N Double A C C P" [sic], dismisses Jackson with a four-letter obscenity, and calls King "a whore."

Some commentators have suggested that far from validating Eddie's views, *Barbershop* holds them up to scorn: everyone else in the shop loudly protests them. But Sharpton's pique, at least, was probably a response, not fully conscious and certainly never fully articulated, to something in the movie that threatens his style of politics and leadership far more than the disrespectful remarks of a single character: a vivid depiction of ordinary people's relish for frank talk about their common life. When Eddie criticizes Parks et al., he's a minority of one; but he speaks for everyone present when he describes the collective exchange as "nothin' but healthy conversation." The filmmakers give the last word to a passing mailman who gets caught up in the verbal fray: "I love this place," he says as he heads for the door at the end of the scene. Though *Barbershop* explores the grounds of such affection in a black context, it would be a big mistake to conclude that it's just highflying black politicos who don't get the connection between communal morale and what Eddie calls "talk[ing] straight."

It would also be a mistake to conclude that making that connection is *Barbershop*'s only provocative gesture, simply because it's the one thing that has stirred up controversy. With far less to-do but equal irreverence, *Barbershop* also skewers pretenses of class and race that have weakened Americans' democratic commitments. These subtler attacks can be hard to discern, thanks to the film's down-home style. Indeed, some reviewers have panned *Barbershop* for cultural and aesthetic conservatism. Nodding to the outspoken Eddie, they cite a slew of hackneyed types whose too-familiar trials and tribulations intersect in a format bor-

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rowed, like the film's sight gags and raunchy jokes, from that generic lowlife, the television sitcom.

Barbershop could indeed serve as the pilot for a television series (and, it's been reported, may actually do so); some of its characters are trite; and its denouement is far neater than most real life resolutions. But to call it conservative or, in the words of one critic, "at best sweet and sentimental," is to perpetuate the common misconception that convention is inherently stifling and sweetness inevitably saccharine. On the contrary, convention can foster radical protest, and good humor can sharpen insight.

Barbershop's treatment of ambition is a case in point. With a cast that includes two rap stars, Ice Cube and Eve, the film owes a portion of its box-office success to the pull of celebrity. Ice Cube plays Calvin Palmer, Jr., the barbershop's owner, and Eve plays Terri, the shop's sole female practitioner. It's Calvin's struggle with vocation and identity that supplies *Barbershop*'s main story line. Far from venerating celebrity, however, the overriding moral of his story is the old-fashioned precept that the mark of honorable work is service to others, particularly other members of one's own community. This lesson comes hard to Calvin, who is fed up with the aggravations of running the small business that he inherited from his father and beguiled by fantasies of wealth, if not renown. In an early scene that alludes to Ice Cube's real-life success as a rapper and a music and film producer, one fantasy—producing a platinum recording—literally goes up in smoke when Calvin switches on his new home studio. By the end of the film, he has embraced his paternal legacy and made it truly his own—but only after having sold the barbershop to a loan shark, painfully come to see the value of what he's relinquished, and taken the bold action required to get it back.

The character who embodies *Barbershop*'s vocational ideal never appears. But Calvin Sr.'s kindly, bespectacled face is painted onto the shop's back wall, alongside those of his colleagues and customers, and his spirit suffuses the place. The essence of that spirit is summed up by Eddie in the admonitory lecture he gives a contrite Calvin, who has just confessed that he's "messed up bad" by selling the shop. "Your father died broke," Eddie says, "but he was rich 'cause he invested in people." Rating loyalty over mobility, *Barbershop* questions a time-honored American ideal. In our culture, getting ahead has typically meant getting away, an imperative that has now gone global.

The message here, however, is not that the collective good ought to take precedence over personal integrity. Rather, *Barbershop*'s handling of vocation suggests that one of the surest ways to pursue the latter is to affirm the former. Calvin Sr.'s "investments" gave men like Eddie, in his own words, "the opportunity to make something" out of themselves. Barbering stands for the "something" that a man ought to be able to make out of himself: the competent practitioner of a respectable, socially beneficial trade—a trade, moreover, that allows a man to exercise prideful skill in his work. *Barbershop* makes it clear that such skill is attained in the company of others. When Eddie notices one of his junior colleagues about to apply a questionable technique to a customer's stubble, he gets out his prized pearl-handled straight razor, gathers everyone round, and demonstrates the finer points of a really smooth shave.

But the character who raises the most complex issues of vocation and identity is neither Eddie nor Calvin Jr. but Jimmy James, an ambitious young African American who's working his way through college as a barber in Calvin's shop. Jimmy is first seen on his way to work, ordering a take-out "triple nonfat, French roast, soymilk cappuccino—just a splash of hazelnut—just a splash—orange extract, with the foam in a separate cup" because, he tells the counterperson, "y'all never get it right—understand?" "Asshole," murmurs the woman next in line. That assessment would be readily seconded by Jimmy's fellow barbers, who spend a good deal of their time fending off his put-downs. Jimmy belittles his co-workers' command of English, knowledge of geography, taste in food, and, most offensively, line of work. As far as he's concerned, cutting hair is an occupation of last resort. "Being educated," he avers, ". . . means you have opportunities. This is not the end of the line for Jimmy James."

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Jimmy's taunts elicit a chorus of rebuttals: "Barber's a respectable occupation." "A barber is a craftsman." And simplest of all: "I like cutting hair." Those rejoinders are backed up by the film's respectful, not to say reverential, portrait of black barbering. The opening credits play over old photos of black barbers, their tools, their places of work, and the artful effects they achieved. The story that follows pays tribute to the communal stature of the black barbershop—in Eddie's words, the "cornerstone of the neighborhood, our own country club"—and bears out the observation, also made by Eddie, that "something as simple as a little haircut could change the way a man felt on the inside."

In the current real world, however, contempt for work that doesn't require academic excellence, let alone a college degree, is widespread. Indeed, among the people who now set educational policy in the United States, it's the dominant attitude. Witness the heightened academic requirements, the ever-increasing amount of standardized testing, and the toughened exit exams that many states have imposed on high school students. New York State recently eliminated the non-college preparatory track to a high school diploma. Jimmy James's denigration of barbering reflects the prejudices of the professional elites he hopes to join, prejudices that blind him to the value of real but modest competence and compromise his own faith in "virtuosity."

Professional hubris can't wholly explain Jimmy's hostility toward one colleague in particular—Isaac, the white barber in the shop (and the only white character in the film). Isaac is also young and ambitious, but his ambitions differ from Jimmy's: he dreams of owning a barbershop. His pride in barbering and his lack of education make him, like the other barbers, an object of Jimmy's contempt. In Isaac's case, however, that contempt is compounded by racial resentment. When Jimmy mocks him for not having had a single customer in three days, Calvin observes that Isaac has "the first chair," that is, the chair nearest the door, the one assigned to the barber with the least seniority—the same one, he notes, where Jimmy started out—the point being that customers are unwilling to take their chances with a novice. Jimmy has a different explanation: "Thought you had a black membership card?" he jeers, as yet another customer declines Isaac's invitation to sit in his chair. "You don't belong here," he says. "The white barbershop is uptown."

This sounds like a charge of racial slumming. And to be sure, Jimmy resents what he sees as a white man's easy appropriation of black identity, an appropriation that extends beyond a yen for barbering—in a black neighborhood, no less—to a sexual relationship with an attractive black woman. With Jimmy looking on in apparent disgust, Isaac emerges from a huge, rap-booming SUV and pauses on the sidewalk to exchange a full-body embrace with his black girlfriend before going in to work.

But Jimmy's insults are driven less by wounded racial pride than by envy, and what he mainly envies is not only Isaac's "fly" girlfriend, but something more elusive—Isaac's self-confidence. As long as Jimmy can believe that only people without options cut hair for a living in a downtown barbershop, he can quell any doubts he might have about his own career path. Isaac unnerves him because he's a white man—that is, a man presumed to have options—who has freely assumed what conventional wisdom deems a black—that is, downscale—vocation and lifestyle. Historically, the intellectual discrimination against technical education has been accompanied by a racial discrimination that steers young blacks into the so-called lower track, regardless of their aptitudes or interests. Jimmy is trying to overcome these twinned biases by getting a college degree and a white-collar job, but he also shares in them. When he calls Isaac a sell-out, it is his own dreams whose betrayal he protests. There's a painful irony in his claim that Isaac belongs in the white barbershop uptown: uptown is where Jimmy hopes he himself is headed. A white man who is purposefully moving in the other direction, geographically and socially, pricks Jimmy's doubts about his own course.

Isaac is an equable guy, but no patsy. He shrugs off Jimmy's refusal to trade high-fives as, fresh from his sidewalk embrace, he goes in to work. But after Jimmy calls him a sell-out—"blackface for the new millennium"—and mocks

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his "pimped-out" car and his black girlfriend, Isaac meets insult with insult. It's Jimmy—"Booker T."—who's the real sell-out, who "can't compete" with a white man who's "blacker" than he is. "You wish you were me!" charges Isaac. Only the timely intervention of the others in the shop—someone slips a disc into the CD player, and everybody begins to dance—keeps the two men from coming to blows.

Their decisive confrontation occurs at the end of the workday when they are alone, packing up to leave. As he's stowing his gear, Isaac suddenly turns to Jimmy and issues a declaration of independence. "I'm not pretending to be somebody you saw on TV. . . .This is who I am, and whether you like it or not, I'm going to be like this tomorrow." Then he takes down Jimmy's educational conceit: "Just 'cause you go to some fancy college don't make you better than me, don't make you better than anybody. I'm probably not even going to go to school, but I'm going to open a business—whether you like it or not!" In a surprising response, Jimmy issues a challenge of his own: "Prove it," he says. "Hook me up!" That is, give me a haircut. Taking the dare, Isaac seats Jimmy in the shop's first chair and painstakingly runs his electric razor over his harasser-cum-client's head, as the camera tracks his every move. After giving the results a long look in the mirror, Jimmy pronounces them "pretty good." Then he apologizes for having "disrespected you like that in front of everybody"—an apology accepted with good grace. "I was running out of insults," says Isaac, and they shake hands.

It's a resolution at once satisfying and inadequate. The satisfaction comes from seeing Isaac live up to his claims for himself and seeing Jimmy show some unexpected depth. Jimmy's challenge, after all, carries risks for himself. What if Isaac really can't cut hair, or if he uses his razor as a tool of revenge? For a man who imagines a career in public relations, a bad haircut (or something worse) would be hard to bear. And Jimmy shows additional substance by his ready acknowledgment of skill and his equally ready apology for his rudeness. But these concessions are too readily tendered. The filmmakers expect us to believe that Jimmy's anxieties would be outweighed by his respect for expertise. Wouldn't those anxieties be ratcheted up by a white man's proven ability to cut African American hair?

At least *Barbershop* grapples with the issues: legitimate vocation, racial entitlement, class mobility. In most films, these matters are sentimentalized or skirted altogether. Which brings us to *8 Mile*. Also released last fall to popular acclaim, *8 Mile* has for its hero Jimmy Smith, Jr., aka Rabbit, another young, white, working-class male living in an inner city—here it's Detroit—who's determined to make it in an overwhelmingly black line of work, in this case, rap. Like *Barbershop*'s Isaac, Rabbit encounters intense black resentment toward a white man set on such a course, resentment he ultimately overcomes by an undeniable display of skill. For him, too, skill is a necessary but insufficient condition of success; the other indispensable factor is self-confidence. Rabbit has both these capacities tested at the Shelter, a bunker-like club where rap hopefuls go up against each other in bruising contests, with the winner chosen by the audience. At the beginning of *8 Mile*, Rabbit enters a "battle," chokes up after his black opponent tells him, "You don't belong here," and flees to the black crowd's chants of "Go, go, go!"—as in, "Get out!" A week later, he returns to deliver an unflinching bravura performance that earns him his due.

Rabbit's story may be of a piece with Isaac's. But despite their similarities, these characters represent very different attitudes toward integrity and success. On first viewing, Rabbit may seem to make much the bolder claims for everyman's prerogatives. Certainly the challenges he faces and overcomes are much more formidable, from the jeers of a crowd to the inner doubts that make him freeze onstage. By contrast, Isaac exudes an easy self-confidence from the first and has to contend with only one obnoxious skeptic. Isaac also sports two accouterments that Rabbit lacks: a reliable car and a reliable woman. And Rabbit has additional liabilities—the emotional abuse of a slatternly alcoholic mother who neglects the kid sister he adores, the false promises of a local promoter, and his own and other men's proclivity for physical violence. He's also nearly homeless. When *8 Mile* opens, Rabbit, hauling all his

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worldly possessions in a plastic garbage bag, has just moved out from his ex-girlfriend's place and is about to crash in his mother's trailer. But Rabbit's triumph over his circumstances, harrowing as they are, would seem like much less of a victory for the common man if it were not bound up with some beguiling cultural cues. In *Barbershop* such cues tempt viewers to see a spirited affirmation of democratic values as an exercise in nostalgia. Their counterparts in *8 Mile* have the opposite effect: they make a story that basically affirms the exclusionary status quo seem like a tale of uncompromising populist iconoclasm.

Perhaps the most artful of these cues exploits rap's ambiguous relationship to the dominant culture. Hip-hop is famously hostile to established authority. Rapping well, however, requires an aptitude that is essential to success in many prestigious contemporary vocations: the capacity to manipulate language. The final showdown, wrote Frank Rich in the *New York Times Magazine*, "has more in common with a no-holds barred debating competition than an urban brawl. . . .At the end of the day, hip-hop is about brainpower. What better role model could any parent ask for?" *Pace* Rich, the answer to that question depends on the kind of brainpower a child has. There are other kinds of smarts besides linguistic dexterity. Indeed, Rabbit himself displays motor skills as well as verbal ones. He is the only character in *8 Mile* who can coax an apparently dead car engine back into life, an ability he puts to timely use more than once. But his passion is for working on words, not engines; and in his milieu, as in Rich's, it's proficiency in wordsmithing, not auto mechanics, that commands respect. Here's one advantage, then, that Rabbit enjoys over *Barbershop*'s Isaac: Isaac has to defend both a white man's right to cut hair in a black barbershop and the legitimacy of a hands-on trade. Rabbit has only to assert a white man's right to rap; the legitimacy of hip-hop is not an issue for him or for anyone else in *8 Mile*.

But Rabbit's own legitimacy is an issue for everyone but his kid sister, Lily, and his addled pal Cheddar Bob. His eventual vindication derives much of its emotional charge from the audience's responsiveness to a familiar device, the "star is born" narrative, wherein after an arduous struggle for recognition, a highly talented but utterly obscure individual wins sudden fame and fortune. Granted, at the end of *8 Mile*, all Rabbit has won is the applause of the Shelter's patrons. When last seen, he's headed back to his crummy day job at a metal-stamping plant. But to a moviegoing audience largely drawn into the theater by a fascination with celebrity, Rabbit seems bound for glory. Since every viewer knows that *8 Mile* is based on the life of the man who plays its hero, megastar rapper Eminem, we duly assume that Rabbit is also headed for megastardom. Take away that assumption, judge the movie strictly on its own terms, and his figure becomes nearly pathetic. He coulda been a contender, maybe.

Even as an account of Eminem's own early success, *8 Mile* makes significant departures from reality. In real life, Eminem's career was stalled until it was taken in hand by successful rap promoter Dr. Dre. In the film, Rabbit flounders until he decides to reject all offers of assistance, both well- and ill-intended, and to proceed on his own initiative. Once again, *8 Mile* calls on a familiar convention for emotional reinforcement. This time, it's the myth of the self-made man. True to the type, Rabbit is proudly fatherless. "Don't push!" he says, after learning that Future, his biggest fan and the Shelter's M.C., has signed him up for a second battle without asking him first. "You're not my fucking father!" The film concludes with the triumphant Rabbit rejecting Future's proposal that they co-host the club's battles. "I think I kind of need to just do my own thing," he says, before turning his back on Future and the rest of his crew and loping off into the night.

Rabbit lacks a father, but he has a mother and a sister, and his relations with them are critical in establishing his character. In another deft move, *8 Mile* manipulates family values so as to garner sympathy for its hero from a diverse audience. In the climactic face-off, Rabbit raps the Shelter's defending champion, Papa Doc, into stunned silence by revealing that Papa Doc went to a private school and comes from parents who "have a real good marriage." Rabbit's point is that a rapper with a respectable middle-class background can only be a poseur. In fact, as Elvis Mitchell observed in his review of *8 Mile* for the

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New York Times, some of the most accomplished black rap artists have middle-class upbringings. Furthermore, Rabbit indulges in some posing of his own. Little does Papa Doc realize that his opponent is vulnerable to the accusation that Isaac flings at Jimmy James: You wish you were me! Unlike the movie's viewers, Papa Doc hasn't seen his rival transfixed by the battered photograph of an affectionate nuclear family that he finds in an abandoned house. So taken is Rabbit with this image that he almost gets caught in the fire that is consuming the place and has to jump out of a second-story window to escape. "When I was little," he tells the woman he fancies, as they watch the house burn, "I used to live in a house like that," and, it might be surmised from the intensity with which he studies the photo, used to live there with such a family. There's no visible sign of either Rabbit's old home or of Jimmy Smith, Sr., but there is ample evidence that Jimmy Jr. yearns for family ties. Rabbit plays father to his little sister, singing her to sleep and taking her to a neighbor's trailer after putting their drunken mother to bed. He even uses his fists to defend that mother's questionable honor.

Anyone familiar with Eminem's family history might find Rabbit's solicitude for his mother hard to take; Eminem's real mother sued him for defaming her in his songs. *8 Mile* lets his movie persona have it both ways. In private Rabbit exhibits longings for family and home that make him palatable to the mainstream audience that the filmmakers hope to capture, many of whom enter the theater uncomfortably aware of Eminem's reputation as an obscene thug. In public, Rabbit suppresses his familial longings, thereby reassuring his longtime fans that he hasn't sold out. The film further parries complaints about sentimentality by investing its hero with a wish for family ties that cannot be realized nowaday. The wish seems credible, its realization too fantastic for belief.

And believability is *8 Mile*'s trump card. The film cloaks its improbabilities with an illusion of total candor that trades heavily on rap's ethos of brutal honesty and its predilection for exposé. By masking his background, Papa Doc not only lays himself open to Rabbit's revelations, he violates hip-hop's rock-bottom commitment to "keeping it real." Rabbit's knockout victory, moreover, results from a shrewd double exposure. He accompanies his startling allegations about his opponent with riveting admissions about his own identity. I'm "a fucking piece of trailer trash," he tells the crowd, "a loser" who still lives at home with a mother who's sleeping with one of her son's former schoolmates. There's more, but you get the picture. His closing riposte: "Now tell these people something they don't know about me!" But he's said it all—or so Papa Doc and the Shelter's fans are left to believe. We know better but have a hard time remembering so, thanks to our own credulity in the face of the two modes of address that frame Rabbit's attack: the outrageous confession and the outraged accusation. These are narrative forms suited to our disillusioned age, in which the injunction to tell the truth is accompanied by the expectation that the truth will be awful.

In *8 Mile*, despair is the lot of everyone except the hero, who vanquishes all comers and then gets out. Nearly obscured by the fervor of Rabbit's quest, the film's cynicism is implicit in its hero's parting gesture. As he heads down a dark alley, Rabbit flashes a peace sign over his shoulder. To someone of Eddie's vintage (and my own), that gesture immediately evokes the antiwar movement of the sixties. Rabbit recycles a once-potent emblem of solidarity in resistance into an expression of gracious withdrawal. Nothing personal, guys. I just have to do my own thing. Please let me do it in peace.

Appearances to the contrary, *Barbershop* issues the broader and braver statement about integrity in a democratic society. Calvin starts to make the same move as Rabbit but changes his mind, partly because the other people who anchor his life won't let him go in peace, and partly because he realizes that his identity is nurtured by the life he shares with those others. Betraying them, he'd be betraying himself. Hanging in means assuming the risks of commitment. Therein lies opportunity. ●

Zelda Bronstein chairs the Berkeley Planning Commission.

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The Debate on Torture:

War Against Virtual States

Sanford Levinson

September 11 revealed what is likely to be a pervasive reality of twenty-first century life: what Philip Bobbit (in *The Shield of Achilles*) calls the rise of "virtual states," not linked to any particular territory or traditional Westphalian state, which possess sufficient access to weapons of mass destruction to wage war against the United States—and, of course, other states—even as they are impervious to ordinary modes of military deterrence or retaliation.

Whatever divisions have been exposed by George W. Bush's war against Iraq, few people deny the legitimacy of doing whatever we can to defeat virtual states such as al-Qaeda. A key question, however, is what we mean by the words "whatever we can." Do they endorse the legitimacy of a war without legal or moral limits, where prudence alone constrains decision makers, or must the "war against terrorism" be conducted within recognized limits, even if this increases the risk of incidents such as September 11? This question takes on special import because of a debate that began shortly after the attacks: is it legitimate to torture suspected terrorists in order to gain information about future actions?

In good dialectical fashion, one should begin with the thesis. "Torture is . . . contrary to every relevant international law . . . . No other practice except slavery," wrote Henry Shue almost a quarter century ago, "is so universally and unanimously condemned in law and human convention." Article 7 of the International Covenant on Civil and Political Rights explicitly states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment," and Article 4.2 of the Covenant, just as explicitly, states that "[n]o derogation" from Article 7 is permitted.

As if this were not sufficient, in 1984 a United Nations conference drafted an equally categorical and even more specific "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." It entered into force in 1987 and has since been ratified by 130 states. Indeed, this is one of the handful of human rights treaties that the United States has signed. The United States fully accepted Article 2(2)'s provision that "[n]o exceptional circumstances *whatsoever*, [emphasis added] whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture." What all this means, to use American constitutional language, is that not even the most compelling state interest can justify deviation from the prohibition: "no torture."

We now turn to the antithesis, beginning with the fact that a number of parties to the Torture Convention have been accused of committing torture, while others have explicitly been found by courts to have engaged in the "cruel, inhuman or degrading treatment" also covered by the Convention. Among these latter countries are Great Britain and Israel, though almost no one believes that other signatories, such as Egypt or Turkey, to name only two, could conceivably survive strict scrutiny of their practices.

There is at least cause to believe that the ban on torture and, even more so, on "cruel, inhuman or degrading treatment," is just one more example of the legal realist insight that one should look to law-in-action rather than law-on-the-books to determine the actual legal order. Support for this depressing conclusion comes in Oona Hathaway's empirical attempt to answer the question, "Do Human Rights Treaties Make a Difference?" (111 *Yale Law Journal* 1935 [2002]). Assessing the behavior of countries that have ratified a variety of anti-

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torture conventions and those that have not, she found that at best "the differences in average levels of human rights ratings for ratifiers versus nonratifiers are small."

But more to the point, in the wake of 9/11, a serious discussion has begun in the United States and elsewhere among members of the general public and the legal profession about the propriety of torture as a means of ferreting out information about terrorism. As early as October 21, 2001, Walter Pincus wrote in the *Washington Post* of the increasing frustration felt by federal law enforcement officials at the refusal by various persons detained in the wake of the attacks to disclose information they were presumed to have. The detainees resisted such standard blandishments as plea bargaining, cash, or relocation in the federal witness program. An "experienced FBI agent" is quoted saying that it could get to the point "where we . . . go to pressure."

"Pressure" is, to put it mildly, a loaded term. As Pincus explained, it can refer to anything from the use of so-called truth drugs* to application of one or another method of torture. One method under consideration, he wrote, "is extraditing the suspects to allied countries where security services sometimes employ threats to family members or resort to torture."

IF WE CANNOT use torture ourselves as a method of self-defense, then "we" (that is, the government of the United States, acting in the name of "We the People") might simply pass on or, in the language of the trade, "render" the hapless suspects to our less fastidious allies—most of whom, of course, including Egypt, Jordan, and Morocco (but not, interestingly, Pakistan) are among the 130 parties to the international treaties prohibiting torture. Thus, write Eric Lichtblau and Adam Liptek in the *New York Times,* Washington is known

> to have turned terrorist suspects over to countries like Egypt, Jordan, and Morocco that are more willing to use more aggressive questioning, what human rights lawyers have called torture, in efforts to break suspects. "I am allowed to use all means in my possession" in interrogating a suspect, a senior Moroccan intelligence official said . . . "You have to fight all his resistance at all levels" . . . (March 4, 2003)

One anonymous American official told the *Washington Post*, "We don't kick the [expletive] out of them**.** We send them to other countries so that they can kick the [expletive] out of them." However, any such policy of "rendering" violates the UN convention, as ratified by the U.S. Senate, which explicitly prohibits not only "direct" torture but also a signatory's sending of prisoners to countries where torture is likely.

Yet Senator John D. Rockefeller IV, the ranking Democratic member of the Senate Intelligence Committee, is quoted by the *Times* reporters as suggesting "that the United States might consider turning over Mohammed [a high official of al-Qaeda captured in Pakistan] to a country that does not have legal restrictions against torture. 'I wouldn't rule it out. I wouldn't take anything off the table where he is concerned, because this is the man who has killed hundreds and hundreds of Americans over the past ten years.'"

There appears to be no major American political figure who believes that it really matters that American policy is in direct contravention of international law—and of American law insofar as treaties are the "law of the land." Instead, refuge is taken in the fact that interrogations "occur at isolated locations outside the jurisdiction of American law." It is apparently a common view that not only does the Constitution *not* follow the flag, but that this is also the case for all other American laws.

Consider also the implications of the fact that Judge Richard Posner, who sits on the Seventh Circuit Court of Appeals, has recently written that "only the most doctrinaire civil libertarians (not that there aren't plenty of them) deny [that] if the stakes are high enough, torture is permissible. *No one who doubts that this*

*It is not clear that there genuinely exists anything that could plausibly be described as the fabled "truth serum." If it did, then one would certainly expect it to be used with some frequency, especially in extreme situations, with attendant publicity about its efficacy. One might well wonder if its use would constitute torture, as against invasion of privacy. If torture includes, analytically, the notion of infliction of severe pain or psychological distress, then it is not clear how injection with a truth serum would fit, unless one places perhaps undue weight on the distress caused by the knowledge that one had in fact ratted, albeit involuntarily, on one's comrades or friends.

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is the case should be in a position of responsibility." [Emphasis added] Posner is scarcely unaware of the duty of judges to protect people against being tortured. He had earlier ruled, with regard to allegations of torture by the Chicago Police Department, that "even a murderer has a right to be free from torture." Yet, he would presumably agree with an American official, with supervisory responsibility over suspected terrorists captured in Afghanistan, who was quoted as saying, "If you don't violate someone's human rights some of the time, you probably aren't doing your job."

A June 16, 2002, story in the *New York Times*, "There Are Ways to Make Them Talk," focuses on the way we already treat captured alleged terrorists or "enemy combatants." It is obvious that the primary reason for holding them is not punishment but information. But how does one get information from people who are unwilling to talk—assuming that they do possess relevant information, itself an arguable proposition? After writing that "[m]ilitary officials say torture is not an option," *Times* reporter Eric Schmitt notes that these same authorities add that "under the Geneva Convention, anything *short of torture* [emphasis added] is permissible to get a hardened Qaeda operative to spill a few scraps of information that could prevent terrorist attacks." A similar story by Jess Bravin in the April 26, 2002 *Wall Street Journal* quoted a teacher at an Army "interrogation school" who tells his students that the job for which he is training them "is just a hair's-breadth away from being an illegal specialty under the Geneva Convention."

Dana Priest and Barton Gellman, in the *Washington Post* on December 25, 2002, report on the interrogation practices Americans regard as permissible in Afghanistan. According to intelligence specialists familiar with CIA methods, those who refuse to cooperate are sometimes kept standing or kneeling for hours, in black hoods or spray-painted goggles. "At times they are held in awkward, painful positions and deprived of sleep with a twenty-four-hour bombardment of lights—subject to what are known as 'stress and duress' techniques." And recall that those suspects who do not cooperate after this treatment are "rendered" to allied countries that presumably use even harsher methods.

HOW, THEN, should we, whether lawyers or simply citizens, try to synthesize these two realities: first, the absolute prohibition against torture and other inhuman and degrading acts and, second, the obvious fact that not only is it occurring, but also, just as significantly, serious and thoughtful people appear to justify it? A variety of responses to what has suddenly been recognized as a potentially costly, rather than merely symbolic, prohibition are possible.

A. Deny the basic premise, that is, the efficacy of torture, and, therefore, maintain the prohibition because it is costless to do so. An extremely attractive response is simply to deny the efficacy of torture. As a March 9, 2003, article in the *New York Times* put it,

> Some American and other officials subscribe to a view held by a number of outside experts, that physical coercion is largely ineffective. The officials say the most effective interrogation method involves a mix of psychological disorientation, physical deprivation, and ingratiating acts, all of which can take weeks or months. "Pain alone will often make people numb and unresponsive," said Magnus Ranstorp, deputy director of the Center for the Study of Terrorism and Political Violence at St. Andrews University in Scotland. "You have to engage people to get into their minds and learn what is there."

One hopes that this is correct, for if it is, the problem essentially vanishes, always subject to the caveat that the justification for torture is in fact the need for information. If torture never achieves its purpose and, indeed, is harmful not only to the victims but even to the police themselves (since false confessions lead them to stop looking for the actual perpetrators), then the obvious question is why any rational police officer would ever engage in it. If torture is in fact inefficient, then one must be a sadist to defend it. One virtue of this response is that it appears "tough-minded," unlike what some might deem merely "moralistic" arguments that we should adhere to the prohibition even if adherence imposes serious costs on innocent people.

But we really have no idea how reliable tor-

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ture is as a way of obtaining information. One cannot even imagine carrying out methodologically sophisticated tests except in a totalitarian society. With regard to the effectiveness or futility of torture, we have only anecdotes and counter anecdotes.

The Israeli Supreme Court, in a decision invalidating a number of standard operating procedures of the Israeli security services, nonetheless agreed that the use of some of these procedures "in the past has led to the thwarting of murderous attacks." Adam Shatz's essay in the *New York Review of Books* on the Algerian struggle for independence in the 1950s concludes by asking, "Was torture [by the French] effective?" (November 21, 2002) If the books under review are reliable, the answer seems to be yes. "[T]orture enabled the French to gather information about future terrorist strikes and to destroy the infrastructure of terror in Algiers."

Harvard Law School professor Alan Dershowitz, in his book *Why Terrorism Works*, offers as an example of torture's "working": a 1995 episode when "Philippine authorities tortured a terrorist into disclosing information that may have foiled plots to assassinate the pope and to crash eleven commercial airliners carrying approximately four thousand passengers into the Pacific Ocean, as well as a plan to fly a private Cessna filled with explosives into CIA headquarters." Such grandiose plans could easily have been dismissed prior to September 11, but not now.

Obviously, there are many instances of torture that are totally inefficacious by any measure. But even this claim concedes the legitimacy of engaging in some kind of cost-benefit analysis, which for some people is itself horrendous: for it rejects the absolutism of the imperative, "do not torture," and accepts the possibility that torture *might* be acceptable. One might say that accepting the legitimacy of even one instance of "efficacious" torture is morally disastrous. This comes close to the position of Ivan Karamazov, who refused to respect, let alone worship, a God who would kill an innocent child even if that would save the entire world. Surely no self-respecting state would preserve itself by losing its soul. Let justice be done though the heavens fall!

B. Revise one's basic view of the norm itself, that is, junk the prohibition.

If an implausible denial that torture can ever be effective is one polar response, then the opposite pole must be inhabited by anyone who argues that Aristotle was right in embracing torture as a method of extracting evidence. If one wishes a more religious source, one might cite the 1252 declaration by Pope Innocent IV that heretics deserved torture. But this is nothing more than sick humor, because no morally serious person would defend the general propriety of torture. The question is whether it is ever, even in a single instance, justified, not whether it is always or even often justified.

If we accept the language of the various treaties quoted above, the nature of the categorical prohibition against torture *requires* that one be an absolutist, for the treaty language explicitly rejects even the slightest deviation from the absolute ban. And accepting the legitimacy of even one act of torture, under the most extraordinary circumstances, is indeed to junk the prohibition.

So we are forced to play the student in Philosophy 101, where Kantian deontologists contend with utilitarians as to the propriety of lying to Nazis or killing a single innocent in order to save the world. Unless one *is* a Kantian, it is hard to understand why one would embrace this position. Thomas Nagel, for example, attempts to defend "absolutism" against its utilitarian critics by writing as follows:

> [L]et me try to connect absolutist limitations with the possibility of justifying *to the victim* what is being done to him. If one abandons a person in the course of rescuing several others from a fire or a sinking ship, one *could* say to him, "You understand, I have to leave you to save the others." Similarly, if one subjects an unwilling child to a painful surgical procedure, one can say to him, "if you could understand, you would realize that I am doing this to help you." One could *even* say, as one bayonets an enemy soldier, "It's either you or me." But one cannot really say while torturing a prisoner, "You understand, I have to pull out your fingernails because it is absolutely essential that we have the names of your confederates." ("War and Massacre," in *War and Moral Responsibility*,

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Marshall Cohen, Thomas Nagel, and Thomas Scanlon, eds.)

But this seems an odd argument inasmuch as one *can* imagine explaining to the victim that it is necessary to know the names of the confederates in order to prevent the possibility of significant harm to innocent people. If one wants to know the names *only* in order to punish the prisoner's past acts, where there is no plausible fear of future violence, then I agree that torture should remain absolutely unacceptable. But to argue for such distinctions is to reject the "absolutism" that Nagel wants to defend.

INSTEAD, I WOULD adopt some version of the view articulated by Michael Walzer in his essay "The Problem of Dirty Hands," (*War and Moral Responsibility*, op. cit.) where he explicitly endorses the necessity of having political leaders who are willing, in dire circumstances, to engage in horrendous actions, including torture. Their saving grace, if that is the right word, is to feel suitably guilty about violating what most people wish *were* an "absolute" prohibition. Walzer draws on both Machiavelli and Max Weber for his analysis. It was Weber who emphasized, when discussing what is required of someone who chooses "politics as a vocation," that one ought to accept the priority of an "ethic of responsibility" (for the good of the community) over an "ethic of ultimate ends" (let justice be done even if the heavens fall). And part of that responsibility, in effect, is to bear the opprobrium of a community that wants to believe itself unequivocally committed to the values that the politician is ready, in the community's genuine interests, to violate.

It is worth mentioning here that even such a noted anti-utilitarian as the legal philosopher Charles Fried recognizes the legitimacy of a "catastrophe exception." Thus he concedes, in the context of discussing a postulated situation "where killing an innocent person may save a whole nation," that "it seems *fanatical* to maintain the absoluteness of the judgment, to do right even if the heavens will in fact fall." [Emphasis added] Just as religious belief is alleged to be at its highest in foxholes, the plausibility of Machiavelli's and Weber's critiques of moral absolutism seems to be strongest when the state, as the political embodiment of an otherwise decent society, is fundamentally at risk.

To accept a "catastrophe exception" to what would otherwise be absolute limitations makes it all the more important to clarify what we mean by "catastrophe." Fried's evocation of "killing an innocent person" to "save a whole nation" seems hyperbolic inasmuch as it would reject the legitimacy of torture even to prevent a repetition of the attack on the World Trade Center, which did not genuinely threaten the "whole nation." I suspect that most of us would accept killing an innocent (or, far more to the point, torturing someone who is reasonably perceived as decidedly non-innocent) to save, say, ten thousand people and, perhaps, even to save "only" the three thousand people who perished on September 11. But the point, surely, is that numbers and what might be termed the "existential" degree of danger count.

C. Analogize torture to some behavior that is, at least on occasion, justified.

Even if one accepts the legitimacy of capital punishment, the state is generally not permitted to kill anyone who has not been convicted of a specific crime. The most obvious deviation from this general rule is warfare, where elaborate rules have been constructed over the ages to permit the killing of combatants and even to permit the killing of innocent civilians if it is the "unintended consequence" of a legitimate attack on military targets. So, the argument runs, if it is permitted to kill an enemy combatant, why should it not be equally legitimate to torture him or her after capture, since torture, on this account, is less dire than the permitted killing?

Henry Shue analyzed such arguments a quarter century ago and argued that "torture is . . . not analogous to the killing in battle of a healthy and well-armed foe; it is a cruel assault upon the defenseless. In combat the other person one kills is still a threat when killed and is killed in part for the sake of one's own survival. The torturer inflicts pain and damage upon another person who, by virtue of now being within his or her power, is no longer a threat and is entirely at the torturer's mercy." Presumably, though, the defender of torture would dispute the premise that the captured prisoner is

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no longer a threat, at least if the prisoner possesses important information about the future conduct of his fellow terrorists. This returns the discussion to square one, and we are forced to confront the legitimacy of torture if one has very good grounds for perceiving the person, even if individually "neutralized," as part of a network that constitutes a continuing threat to innocent people.

D. Deny that one is engaging in torture: that is, maintain the prohibition but proclaim as well that whatever one is doing does not constitute a breach.

Even the International Committee of the Red Cross, which has special responsibility for monitoring compliance with the Geneva Conventions, concedes "[t]he Geneva Conventions are not specific to the point of listing whatever forms of interrogations are or are not permissible." Consider the definition of "torture" offered by the United Nations in Article I of the Convention:

> For the purposes of this Convention, the term "torture" means any act by which *severe* pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official . . . . It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. (Emphasis added)

Consider now the "understanding" (which some other states say is equivalent to a "reservation") voted by the U.S. Senate when ratifying the Convention:

> The Senate's advice and consent is subject to the following understandings, which shall apply to the obligations of the United States under this Convention:
>
> (a) That with reference to article 1, the United States understands that, in order to constitute torture, an act must be *specifically intended* to inflict *severe* physical or mental pain or suffering and that mental pain or suffering refers to *prolonged* mental harm caused by or resulting from (1) the intentional infliction or threatened infliction of severe physical pain or suffering; (2) the administration or application, or threatened administration or application, of mind altering substances or other procedures *calculated to disrupt profoundly* the senses or the personality; (3) the threat of *imminent* death; or (4) the threat that another person will *imminently* be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt *profoundly* the senses or personality. (Emphasis added)

One need not be a lawyer to recognize that the language of the initial Convention and that added by the Senate are significantly different. Indeed, the government of the Netherlands has explicitly stated to the United Nations its "objection," that the "understanding" of torture by the United States "appears to restrict the scope of the definition of torture under article 1 of the Convention." Moreover, the meaning of the words I have italicized is even more subject to debate than the scarcely self-evident language of the United Nations itself. Even with regard to the latter, it is easy to argue that it is not the infliction of pain and suffering that is prohibited, but only "severe" pain and suffering, and one can presumably have good-faith disagreement as to the relevant measure of severity. Moreover, the addition by the United States of a requirement that mental harm be "prolonged" also offers more than enough opportunity for apologists to deny that some act constituted "torture" because the mental harm lasted "only" a week, or a month, or three months.

Indeed, every lawyer knows that if a given activity *X* is prohibited, then the task is to define the act of one's client as *X minus a*, where *a* is something the lack of which means, arguably, that one is not doing *X* at all. This applies whether *X* is insider trading, corporate fraud, violation of a test-ban treaty, or torture. As a matter of fact, no country actually admits to engaging in "torture" as a systematic public policy. Thus in one notable case where the Israeli Supreme Court courageously declared illegitimate the methods of interrogation em-

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ployed by Israeli security services against suspected Palestinian terrorists, the Court declined to affix the label "torture" to the various forms of pressure, including vigorous "shaking" of the body, extended placement of suspects in extremely uncomfortable seating positions, and sleep deprivation. These were, however, sufficient violations of "human dignity" as to be impermissible. Interestingly enough, Justice Barak cited *Ireland v. United Kingdom*, in which the European Court of Human Rights assessed methods of interrogation used by the British in Northern Ireland, which included "protracted standing against the wall on the tip of one's toes; covering of the suspect's head throughout the detention (except during the actual interrogation); exposing the suspect to powerfully loud noise for a prolonged period and deprivation of sleep, food and drink." The European Court held that use of these methods did not constitute torture, but, since together they *did* treat the suspects in an "inhuman and degrading manner," they were prohibited nonetheless. In these cases, one may be genuinely grateful for the Courts' willingness to take seriously the notion of "inhuman and degrading" treatment, whether or not it constitutes torture. But if one regards torture as a uniquely dreadful phenomenon, there is a temptation to view "merely" inhumane and degrading treatment as potentially permissible, even though it is also prohibited under the Convention.

Consider the comment of a Honduran torturer, Florencio Caballero, describing interrogation techniques he was taught by American military personnel at an army base in Texas and that he took back to Honduras:

> They taught us psychological methods—to study the fears and weaknesses of a prisoner. Make him stand up, don't let him sleep, keep him naked and isolated, put rats and cockroaches in his cell, give him bad food, serve him dead animals, throw cold water on him, change the temperature. *The Americans didn't accept physical torture*. [Emphasis added] (Quoted in *Unspeakable Acts, Ordinary People*, by John Conroy)

It may be, alas, that this degree of scrupulousness, assuming that the above examples are not physical torture, is best explained by the realization that torture is indeed inefficacious, as suggested earlier, compared to the methods described by Caballero. Menachem Begin vividly wrote of his own torture as a young man in the Soviet Union, which involved sleep deprivation. The spirit of a sleep-deprived prisoner, Begin writes,

> Is wearied to death; his legs are unsteady, and he has one sole desire: to sleep, to sleep just a little, not to get up, to lie, to rest, to forget. . . . Anyone who has experienced this desire knows that not even hunger or thirst are comparable with it. . . (Conroy, op. cit.)

One can only wonder, for example, what methods of interrogation are being visited upon Jose Padilla, who is being held absolutely incommunicado in a federal facility in Virginia, refused the right to speak to a lawyer or to anyone else—a denial formerly associated only with totalitarian governments. One need not believe that he is being physically tortured in order to suspect that his treatment is probably in violation of the standards of human dignity enunciated by the Israeli and European Courts. How much should it matter whether lawyers define what from the prisoner's perspective is endless solitary confinement as *X*, i.e., torture, or *X minus a*?

In any event, one can only describe as a lie the statement of White House spokesman Ari Fleischer that "[t]he standard for any type of interrogation of somebody in American custody is to be humane and to follow all international laws and accords dealing with this type subject. That is precisely what has been happening and . . . what will happen." [as quoted] Do we prefer to be fed self-serving pabulum or to engage in a serious debate about the actual degree of U.S. conformity with "international laws and accords" and the consequences thereof?

E. Don't ask, don't tell: that is, maintain the prohibition at a formal level but . . .

The last three responses involve the public concession that there are some circumstances—limited to genuinely "hard cases" involving the necessity of procuring information about significant dangers—in which torture or other "inhuman or degrading" treatment is conceivably justified and its perpetrators therefore excused from criminal

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liability. There are, however, some analysts who reject not so much this limited repudiation of absolutism as the publicity of the concession. I classify this approach as similar to the "Don't ask, don't tell" slogan made infamous by President Bill Clinton in his compromise concerning gays and lesbians in the military.

Can one admit that even the most absolute rules are made to be broken, at least on occasion, but nonetheless maintain as well that it is so important to express the absolutism, because of the values it implies, that any such breaking should take place out of public view (or the space occupied by public discussion)? Exemplary in this regard is the Slovenian social theorist Slavoj Zizek, who writes in criticism of those who prefer "honesty" over "hypocrisy" with regard to the possibility of engaging in torture:

> [W]e should . . . paradoxically stick to the apparent "hypocrisy": OK, we can well imagine that in a specific situation, confronted with the proverbial "prisoner who knows" and whose words can save thousands, we would resort to torture—even (or, rather, precisely) in such a case, however, it is absolutely crucial that we do not elevate this desperate choice into a universal principle: following the unavoidable brutal urgency of the moment, we should simply do it. Only in this way, in the very inability or prohibition to elevate what we had to do into a universal principle, do we retain the sense of guilt, the awareness of the inadmissability of what we have done. (*Welcome to the Desert of the Real*, 2002)

It follows, then, that Zizek is vehemently opposed to essays such as this one, which attempt to analyze the propriety of torture and, implicitly or otherwise, suggest its possible legalization. Indeed, "essays . . . which do not advocate torture outright, [but] simply introduce it as a legitimate topic of debate, are even more dangerous than an explicit endorsement of torture." Unlike the latter, which would be "too shocking" for most people to accept, "the mere introduction of torture as a legitimate topic allows us to entertain the idea while retaining a pure conscience." This serves, he argues, to legitimize torture and "changes the background of ideological presuppositions and options much more radically than its outright advocacy."

This is definitely a serious intellectual position. Many years ago Meir Dan-Cohen introduced the idea of what he called "acoustic separation" of laws as understood by the general public and as understood by those actually charged with implementing them. That is, the law in some meaningful sense speaks differently depending on the extent to which one is inside or outside the domain of its implementation. One can defend such an approach by quoting the old maxim about hypocrisy being the tribute that vice pays to virtue. In this case, the element of hypocrisy that is involved in the *cogniscenti*'s being aware that the reality of legal practice is different from what the naïve outsider might believe is amply justified by the reinforcement of the undoubted virtue of an ethic of no-torture.

Even if one is normatively drawn to this version of "Don't ask, don't tell," the practical difficulty is that the victims of torture, if they are left to live, will almost undoubtedly wish to invoke some kind of ex post legal process, whether by seeking the criminal punishment of their torturers or suing for civil damages for violation of their legal right not to be tortured. The only way to guarantee silence is to adopt what is said to be the practice of professional killers and to kill all eyewitnesses to a crime, explaining that it's "professional, not personal." But nobody who defends the pragmatic necessity of unacknowledged torture would move to this next step. Such a Mafia-like code of silence will never be maintained. One must, therefore, wrestle with the response of the legal system to the almost inevitable public aspect of torture.

The "Torture Warrant"

If one accepts the absolutism of the prohibition, then the answer to the question above is, "Nothing," save redoubled efforts to assure compliance. As already noted, I cannot in good faith endorse such absolutism inasmuch as I accept some version of Walzer's argument. So what is to be done as one approaches this particular moral Rubicon?

Dershowitz, a noted civil libertarian who, nonetheless, rejects the absolutism of the prohibition, suggests that the best alternative, once one accepts the possibility of even one instance

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of "legitimate torture," is to require that the state first procure a "torture warrant" explicitly authorizing the activity. Zizek condemns Dershowitz's view as "extremely dangerous" insofar as "it gives legitimacy to torture, and thus opens up the space for more torture." But this is an empirical question: what approach to torture, among those outlined above, best reduces or eliminates it actual occurrence?

It turns out to be surprisingly hard to avoid granting some element of the "legitimacy" condemned by Zizek, unless one resolutely believes, in the face of all the evidence, that any and all known events of torture will be prosecuted with significant severity. It is illuminating that Shue, even as he insisted that all acts of "torture ought to remain illegal," nonetheless added immediately that "anyone who sincerely believes such an act to be the least available evil" should be

> placed in the position of needing to justify his or her act morally in order to defend himself or herself legally . . . . Anyone who thinks an act of torture is justified should have no alternative but to convince a group of peers in a public trial that all necessary conditions for a morally permissible act were indeed satisfied . . . . If the situation approximates those in the imaginary examples in which torture seems possible to justify, *a judge can surely be expected to suspend the sentence*. [Emphasis added] ("Torture," *Philosophy and Public Affairs* 124 [1978])

This argument is quite similar to that adopted by the Israeli Supreme Court, which left open the possibility that an interrogator accused of torture or inhumane acts could employ the necessity defense, which excuses criminal liability with regard to "any act immediately necessary for the purpose of saving the life, liberty, body, or property, of either himself or his fellow persons, from substantial danger of [imminent] serious harm . . . absent alternative means for avoiding the harm."

This scarcely avoids legitimizing at least some acts of torture if we truly accept the possibility of acquittal, suspension of sentence, or gubernatorial and presidential pardons of what would be perceived as "morally permissible" torture. State officials would then be giving their formal imprimatur to actions that the various Conventions condemn without exception.

The Conventions appear to require that torture be a strict liability offense, with no possibility of justification; any variation in punishment, based on the level of culpable evil, takes away from the element of strict liability. Unless the state engages in elaborate cover-ups of alleged instances of torture, sooner or later lawsuits will be filed, at least within the United States, and, given the possibility of "universal jurisdiction" over torturers, within any country that wishes to prosecute those accused. Any such country, therefore, will have to wrestle with the extent to which it is willing to listen to the story of the torturer, as well as to the person tortured.

A SECOND CONSIDERATION is equally significant: if one is motivated to minimize the instances of ostensibly legitimate torture, as Dershowitz is, then one should certainly address the possibility that the requirement of a warrant, coupled with strict liability and severe punishment for any torturous activity that occurs without a warrant, would generate less deviation from the basic prohibition of torture and other inhumane and degrading actions. One reason for believing this, alas, is precisely the unwillingness of states, including the United States, Great Britain, and Israel, among others that could no doubt be cited, to prosecute as criminals those who engaged in violations of the relevant prohibitions. As John Conroy, writes, "[T]hroughout the world torturers are rarely punished, and when they are, the punishment rarely corresponds to the severity of the crime." Torturers sometimes lose their jobs, but they rarely go to jail.

Conroy's explanation is derived from the very title of his excellent book *Unspeakable Acts, Ordinary People*. Torturers are not necessarily the obvious sadists one would, in some perverse sense, like them to be. Although he does not cite Hannah Arendt's "banality of evil," exemplified by Adolf Eichmann, his analysis is much the same, if not, in some sense, even more depressing. In Eichmann's case, no one can believe that the Jews in any conceivable sense deserved their fate. But often the victims of torture will indeed be unattractive, and the alleged torturers will often be able to argue sincerely that they were acting to protect society.

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Mark J. Osiel makes this point very powerfully in his study of Argentinian torture during the "dirty war" in the 1970s. He summarizes his conclusions by asking "[w]hy has the law not faced the fact that administrative massacre is often committed by people *who are not vicious, insane, malicious, disconnected interpersonally, or coerced by a totalitarian state*." He concentrates much of his analysis on Alfredo Artiz, a naval officer "who led one of the most notorious abduction squads," but who was described as "an English gentleman" by one of the prisoners he tortured. An important contribution to Artiz's self-image as an honorable man was apparently provided by Catholic priests, who believed that the "dirty war" was also very much a "just war."

Can anyone imagine that an alleged terrorist claiming to have been tortured by or with the knowledge of American officials could win a jury trial for damages in the United States today, even assuming that one could surmount various immunity defenses that might prevent ever getting to the jury? If one believes in the probability of what might be termed the underenforcement of the norm against torture—and any other view is willfully naive—then we should take seriously Dershowitz's suggestion that we look at torture from an ex ante perspective rather than the presumptively inadequate ex post one.*

To be sure, we can wonder if there really are a sufficient number of detached magistrates to withstand the blandishments of the state, but perhaps there are ways to correct for deficiencies on this score. First, unlike the authorizations to engage in wiretaps of alleged foreign agents, which are granted by a secret court, all torture warrants should be public, with written opinions that can be subjected to analysis even if the opinion cannot specify all the evidence that persuaded the judge that this is one of the rare cases justifying the warrant. Second, the person whom the state proposes to torture should be in the courtroom, so that the judge can take no refuge in abstraction. The judge should be fully aware of his or her personal complicity in the act of torture.

Making the judge complicit in torture would have certain consequences. One might be that certain judges would simply stand down, because of their adherence to the absolute proscription of the practice. Justice Antonin Scalia has recently argued that a judge is sufficiently complicit in the act of capital punishment so that no judge who believes that capital punishment is immoral should remain on the bench in such cases. Similarly, whether or not the judge actually puts the hood over the head, he should have no doubt that he is collaborating in what even Argentinian torturers recognized as presumptively evil activity. He should know that he is, therefore, potentially at risk if a later court finds the grant of the warrant to be unreasonable.

The first two suggestions above are directed to minimizing the occurrence of torture warrants through structuring the procedure attendant to their issuance. But one might suggest as well that anyone against whom a torture warrant is issued receive a significant payment as "just compensation" for the denial of his or her right not to be tortured. And, the compensation could be increased if it turned out that the person tortured had no significant information to give the authorities. Perhaps the very notion of "just compensation" is offensive in such contexts, especially if it suggests that the compensation is simply the amoral "price" that the state pays for torture. But the ex ante assignment of such a price, especially if it is substantial and paid to *everyone* who is tortured, might serve to limit the incidence of torture.

In Our Name

It is vitally important that we discuss what is being done in our name. As the *Economist* has written (January 11, 2003), discussion in the United States has been all too "desultory." It is, perhaps, a dreadful play on words to describe torture as too painful to think about. Yet, as both journalists and philosophers emphasize, it is of

*This discussion assumes, of course, that there is time to procure a warrant. Dershowitz and others have sometimes used a "ticking time bomb" hypothetical, about which two things can be said. First, there is no known example of this actually occurring, in the sense of having someone in custody who knew of a bomb likely to go off within the hour. Second, should one in fact be faced with such a situation, anyone who believes that torture is acceptable with a warrant would, I suspect, waive the requirement when time is truly of the essence.

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extraordinary importance in defining who we are as a people and how seriously we take our most solemn commitments. Perhaps law cannot speak fully during time of war; with regard to torture, though, all that law needs to do is whisper, given the remarkably categorical ban on torture that it contains.

THE DEMOCRATIC PARTY is so anesthetized that it appears unwilling to lead any serious political discussion about the police-state methods defended by the Bush administration and its apologists. And even political liberals such as Dershowitz seem willing to countenance the use of torture in some (rare) instances rather than adhere to the language of international law and its unequivocal condemnation of any and all torture. No doubt, many readers may think that I have betrayed the cause of human rights by indicating my respect for Dershowitz and the arguments he offers. But, of course, these are not the only voices in the debate, and I conclude with two strong arguments against those of us who seem willing to violate this most basic of all prohibitions.

The first is Jeff Jacoby, a conservative columnist for the generally liberal *Boston Globe*: "The civilized world condemns torture as irredeemably barbaric; one of the strongest counts in the indictment against Saddam Hussein, for example, is the use of torture in his prisons." (January 26, 2003) But, asks Jacoby, "what if, in an extreme case, torture is the only way to extract information that would save thousands of lives? . . . Don't we have to keep torture available as a last and desperate option?" His answer is the same as that offered by the philosophers Nagel and Shue: "No. The way to win this war is not to adopt our enemies' evil methods. Resort to torture could conceivably stave off a catastrophe. But at what price to our self-respect? . . . We are in a war of the decent against the indecent. We dare not cross the line that separates the two."

Jacoby was heavily influenced in his column by a remarkable discussion of the propriety of torture published in the *Economist* of January 11, 2003. A vivid cover asked, "Is torture ever justified?" The opening editorial answered in effect "no," and a longer "special report" extended the analysis. Both took note of arguments by Dershowitz and other "defenders" of torture (in extreme circumstances); conceding that torture might on occasion be efficacious, the journal's editors concluded that

> for the democratic West, any such gains would be outweighed by greater harm. The prohibition against torture expresses one of the West's most powerful taboos—and some taboos (like that against the use of nuclear weapons) are worth preserving even at heavy cost. Though many authoritarian regimes use torture, not one of even these openly admits it. A decision by the United States to employ some forms of torture, no matter how limited the circumstances, would shatter the taboo. The morale of the West in what may be a long war against terrorism would be gravely set back: to stay strong, the liberal democracies need to be certain that they are better than their enemies . . .
>
> There is room for discussion about what the lines [of interrogation] should be. Given the gravity of the terrorist threat, vigorous questioning short of torture—prolonged interrogation, mild sleep deprivation, perhaps the use of truth serum—might be justified in some cases . . . . But there is a line which democracies cross at their peril: threatening or inflicting actual bodily harm. On one side of that line stand societies sure of their civilized values. That is the side America and its allies must choose.

There is a special reason for the United States, among all countries, to choose adherence to the no-torture "taboo." This involves what might be termed the "contagion effect" if the United States is widely believed to accept torture as a proper means of fighting the war against terrorism. For better and, most definitely, for worse, the United States is the "new Rome," the giant colossus bestriding the world and claiming to speak on behalf of good against evil. Part of the responsibility attached to being such a colossus may be the need to accept certain harms that lesser countries need not accept. Our very size and power may require that we limit our responses in a way that might not be true of smaller countries more "existentially" threatened by their enemies than the United States has yet been. If *we* give up the no-torture taboo, then why shouldn't any other country in the world proclaim its freedom from the solemn covenant entered into through the

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UN Convention?

This is a very powerful case, and much in me wishes to endorse it without further ado. At the very least, I strongly agree that the United States must be willing to bear significant costs—greater than many other countries—before it accepts the possibility of torture. "Catastrophe" must be taken seriously as a limiting condition, rather than as a rhetorical term to be evoked whenever something appalling happens.

Note, though, that even the *Economist* fudges by endorsing "vigorous questioning short of torture." This clearly requires that we must confront head-on exactly where the line is to be drawn. We must be as attentive, intellectually and emotionally, to "inhuman and degrading" acts as to "torture," lest we fall victim to what I have termed the *X minus a* phenomenon. In any event, anyone who accepts the necessity of linedrawing—and that must mean anyone who thinks seriously about this topic—must be willing to defend awful conduct that comes right up to the line. There is no way to avoid the moral difficulties generated by the possibility of torture. We are staring into an abyss, and no one can escape the necessity of a response. ●

Sanford Levinson is professor of law and government at the University of Texas Law School and author of the forthcoming collection of essays, *Wrestling with Diversity* (forthcoming, Duke University Press).

RESPONSES

Henry Shue

A morally serious person does not pretend to an absolute objection to torture that he or she cannot support. Too much is at stake to indulge in extreme but indefensible positions that collapse under the weight of reality. Sanford Levinson is morally serious and intellectually honest and judges it necessary to offer a reluctant kind word for torture that might contribute to the avoidance of disaster. But torture falls beneath the minimal standards of civilization, and there are powerful reasons to protest any advance permission for such degrading actions. At most, we should consider retrospective forgiveness for someone so convinced that he confronted the rare exceptional case that he was willing to risk severe punishment if decent people were not later persuaded that he had been right. Formal exceptions invite widespread abuse, especially where a judicial system is under the degree of intimidation inflicted by the Bush administration since 9/11. How many U.S. judges have so far shown the wisdom and courage to resist less extreme assaults on civil and human rights?

An initial reason why the United States should never engage in torture is precedent. When I heard that U.S. military personnel bravely and professionally performing their duties in the U.S. and British invasion of Iraq had been captured, my first thought was, "I hope they are not tortured." We have no guarantee that a precedent of refraining from torture will be followed by others, but we can be sure that a precedent of engaging in torture will be followed. "If the world's superpower, with all its high technology weapons, cannot defend itself without using torture, how can incomparably weaker and poorer groups like us manage without torturing captured fighters who might provide valuable life-saving information?" Torture seems to be the ultimate in efficiency, the shortcut to end all shortcuts. It is difficult enough to resist when you would be the exception if you gave in. When you would simply be following the leader, the precedent is irresistible.

More frightening than the permissive power of precedent is that for the United States to use torture would undermine its logic in condemning terrorism. How could we condemn all terrorism while permitting some torture? Any sane defense of torture attempts to justify only the exceptional act in the extreme emergency. For some terrorists, extremity is not necessary; terror is a way of life, just as torture is

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a way of life for some torturers, and it is easy to explain why neither terrorism nor torture should be a way of life. But what about "selective terrorists" for whom this cause is noble, this situation desperate, and this possible payoff enormous? If those circumstances justify "selective torture" (by the most powerful state in human history), why don't they justify "selective terrorism" by profoundly threatened true believers?

Justifications for torture thrive in fantasy. We imagine we have exactly the person we need—not some poor devil who looks like him to agents who have parachuted in from another culture. We imagine that the person we hold knows exactly what we need to know—not out-of-date information overtaken by events. We imagine that the person will reveal exactly what we need—not simply vomit and die, or descend into a psychotic state (of course torturers become better at it when they have more practice). We imagine that the information that will be revealed will be sufficient to prevent the terrible catastrophe—not that the catastrophe will simply be re-scheduled for a different time or place.

It is as easy to imagine the perfect torture as it is the perfect murder. The question is, what guidance do such imaginings provide for the real world in which things tend to go awry and to have unexpected consequences? No doubt there have been perfect murders, possibly also perfect tortures in which only some temporary degrading treatment of only a few people yielded spectacularly valuable information that prevented horrific catastrophes. But the question is whether public policy should presume the likelihood of these imagined neat cost/benefit bonanzas or the greater likelihood of snafu, excess, and metastasizing degradation.

For the ultimate reason not to inflict agony upon other human beings is that it is degrading to all involved: all become less human. The *Washington Post* documented on December 26, 2002, that the U.S. government currently subcontracts the most awful torture to its supposedly less civilized allies, such as the governments of Morocco and Saudi Arabia. One could have a nice philosophical argument about whether it is more contemptible to arrange for third parties to do the dirty work or to act on one's supposed convictions and dirty one's own hands. Either way, ultimate responsibility lies with those who give the order, even if they can only bring themselves to whisper and wink. Perhaps the pitiful U.S. efforts at "deniability" are a tiny, hopeful sign of surviving conscience.

Isn't there a cost to insisting on minimal civilization? Of course. I first read Levinson's essay in the departure lounge at Heathrow airport, waiting for American Airlines flight 155 to Logan in the first week of the U.S.-U.K. invasion of Iraq. "What if today is the day of the follow-up to 9/11, and in some London basement is a man who knows that there is a bomb on AA155? Wouldn't you endorse torture just this once, great moralist?" I am not a brave man, but I couldn't take my little airport thought-experiment very seriously. Mainly, I thought that a dedicated terrorist would insist to the police that the bomb was on the later United flight to Dulles, until the American flight to Logan had already exploded. Having already suffered so much, why shouldn't he try at least to accomplish his goal? Looking into the faces of the families around me innocently waiting for their trip to Boston, I reflected on the fact that this was not only or mostly about me. If these mothers and children died from terrorism because I would not endorse torture, it would be terrible. But what kind of world would these children live in if I added torture to the terrorism while imagining that I was saving their lives? Conceivably, they would live, not die, but they would live in a world in which even the strong had abandoned restraint and sunk further into barbarity. If I had had the London police on the phone ready to do my bidding, I honestly believe that I would have said, "Let's risk it—let's gamble that we can honor our principles and that the children (and old men) will not only not die but will live in civilized countries." ●

Henry Shue is a senior research fellow at Merton College, Oxford.

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Richard H. Weisberg

In mid-October 1940, with Nazi occupiers in Paris and a new French regime called "Vichy" legislating aggressively against Jews, Jacques Maury leveled a frontal protest against racism. A specialist in public law from the University of Toulouse, Maury could not believe that his own country had jumped the gun on German demands and exceeded Nazi models in persecuting the Jewish population under its own jurisdiction. Maybe the occupiers would eventually force this on the French, but Maury stated what he deemed to be the obvious: it was unacceptable for a government acting in the name of France to violate "our long-held rule safeguarding equality in their rights as well as in their responsibilities to all French people."

Although he wrote prominently for the Parisian equivalent of the *Yale Law Journal*, Maury was punished for his unequivocal support of human rights neither by Vichy nor the Nazis. Three years later, we find him still writing about these laws, but now with an acceptance and a familiarity born of his colleagues' failure to join with him in 1940. Whatever their personal feelings about Vichy's reversal of France's 150-year long egalitarian legal traditions, the entire legal community in France had begun "debating" the fine points of racism in the new "emergency" environment of World War II.

So today comes Sanford Levinson, a liberal constitutional lawyer of impeccable credentials, to help us "debate" torture. Although the practice violates all of our traditions, Levinson and others are starting to "pull a Vichy" on their community. Instead of clearly and simply opposing what they know violates our best traditions and laws, they cave. Before the fact, before anyone knows whether torture has already or will ever become a widespread American technique of interrogation, those who might be the architects of protest instead produce a road map for the unacceptable. As Eyal Press wrote in the *Nation* (March 31, 2003), "the taboo on torture has been broken." And a so-called "legal realist" like Levinson is among the first to breach the barricades.

Well, let me step in and try to emulate Jacques Maury by reminding these fellow travelers that when right(s)-thinking people start to equivocate, they bring about the practice that their better nature abhors. It is not "realistic" to lead (or join) the equivocation chorus. History proves that countries and their legal systems emerge much the worse when the urge to "get real" overwhelms the instinct to protest.

For it is clear beyond contradiction that had his community lined up behind Maury, France as a whole would have fared better in its treatment of Jews during Vichy. More Jews would have survived, even if the Nazis had been able to do the terrible work all alone of annihilating this population in the face of principled protest. Instead, France continues to suffer today because only Maury had the common sense and the courage to say "NO!" So, too, does American law continue to show the scars of *Korematsu v. United States*, which affirmed the legalized roundups of tens of thousands of our Japanese heritage citizens and residents, also in the name of "emergency." If there had been principled resistance, instead of rationalization, the extreme and aberrational set of arrests might never have taken place. An example from a far worse regime proves this. Hitler himself had to short-circuit a program of killing so-called "mental defectives" when a broad-scale protest made clear that whatever else was happening, this at least would not be tolerated.

"No one likes torture." This is the opening gambit of someone who we know is about to say BUT . . . The complex analysis that follows, the dividing of an abhorrent practice into "good torture" and "bad torture," sets the stage for a full-blown acceptance of the practice. *Avant la lettre*, folks like Levinson (and Richard Posner and Alan Dershowitz) display an unseemly haste to appear sophisticated and, of course, "instrumental." No one, after all, wants to seem wide-eyed when facing the "ticking bomb" hypothetical. Even if there are severe admitted costs to breaking the taboo, they say, the benefits in the saving of thousands of lives far outweigh the pressure on our system of such heavy practices as torture

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and its many variations.

As David Cole and I, among others, have pointed out, it may be the instrumentalists who are being naive. "You can't know whether a person knows where the bomb is," explains Cole in the *Nation*, "or even if they're telling the truth. Because of this, you end up sanctioning torture in general."

Let us continue to be alert to what governments may be doing. And, if there is evidence of torture, let us begin the "debate" by protesting the practice. Let us not lead, in the name of some misguided and ahistorical "realism," with our collective, liberal chins. ●

RICHARD H. WEISBERG is Floersheimer Professor of Constitutional Law at Cardozo Law School, Yeshiva University, and author of *Vichy Law and the Holocaust in France*. His first debate on torture with Sanford Levinson is available from Public Radio in Chicago ("Odyssey" www.odysseyradio.org).

Sanford Levinson Replies

I AM, OF COURSE, very grateful to Henry Shue and Richard Weisberg for their thoughtful comments. I will address them in order.

I am not convinced there is much difference between Shue and me. I was touched by the eloquence of his conclusion and by his reminder that to accept torture is indeed to countenance "barbarity." I also agree with the *Economist* that the United States (as the exemplar of "the West") has a special responsibility to resist temptations to torture. I would, therefore, resist his labeling my essay as having a "kind word" for the torture that I have no doubt is occurring under the aegis of the United States, even if it is being carried out by our allies in the "War against Terrorism."

Still, like me, Shue appears to accept the possibility that someone might indeed "confront . . . the rare exceptional case" where "retrospective forgiveness" would be the proper response to that person's decision to use torture in that particular situation. This willingness to forgive at least one (hypothetical) torturer, places him closer, I believe, to Michael Walzer (and, therefore, to me) than to Thomas Nagel.

Where we disagree, then, is on the relative merit of before-the-fact permission and retroactive exculpation. Shue fears that adopting anything like Alan Dershowitz's proposal for "torture warrants" would inevitably take us down the road to accepting torture as relatively routine—since supine judges would grant the entreaties of overly aggressive security agencies. Anyone who doesn't share this fear is a fool. But my greater fear is that reliance on retrospective assessment will have much the same effect, as potential torturers realize that the actual prospects of punishment are very low indeed, for reasons given in my article. I may be wrong, of course. This is something about which people of good faith can disagree. Where I hope we agree is that it is better to have this conversation in public than to avert our eyes to what is actually going on.

I am not sure that my good friend Richard Weisberg agrees with this last sentence. One way of reading his argument is that the only proper response of a decent person is to proclaim that torture is always wrong, period, and to refuse to give the slightest countenance to any argument that suggests that the "always" should have an "almost" in front of it. For the reasons given in the essay, I can't really agree. Part of the reason is that I do not accept in full the analogy between the collaborator with Vichy and one who decides, with a heavy heart, that there might be an isolated circumstance where torture would be defensible. Perhaps this is a difference between ends and means. What made Vichy contemptible was its willingness to share at least in part the Nazi vision of the proper end-state of European society. I suppose that the best question to direct back at Weisberg is whether he believes that the French Resistance was itself justified, in even a single instance, when it used torture and similar methods in its fight against the Nazi evil.

But there may be a more fundamental disagreement between us. Let me concede, for sake of the argument, that Weisberg is correct

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that one ought never, even for an instant, suggest that torture is anything other than the evil it undoubtedly is. (No one who "defends" it does so on any other basis than that in some circumstances it may be a "necessary evil," but evil it always remains.) That is not enough to stop the conversation, though, because as my article demonstrated, so many opponents of torture seem altogether willing to accept methods that "stop short of torture" (putting to one side, of course, the fact that the United Nations Convention prohibits cruel, inhuman, and degrading treatment as well). And the U.S. Senate, when ratifying the Convention, was careful to limit the banned methods to those that would independently violate the Eighth Amendment's prohibition of "cruel and unusual" punishments.

What this means is that lawyers must necessarily be involved, for better and, no doubt, for worse, in trying to identify what it is that constitutes "torture" as against something less than torture—or, for that matter, in identifying precisely what reaches the level of "cruel, inhuman, and degrading treatment." Any such efforts require potentially gruesome and explicit conversations. A fastidious lawyer could, no doubt, refuse to have anything to do with answering such questions, but, at the end of the day, I believe that represents a moral copout—unless the lawyer rejects the propriety of *any* interrogation that goes beyond a courteous request for information. Once one accepts the validity of *some* kind of more stressful interrogation, then we have no choice but to try to figure out how to demarcate the boundaries between the acceptable and the unacceptable, as well as to discuss what kinds of legal procedures offer the greatest promise of maintaining the boundaries we set. If Weisberg refuses to join that conversation, I think he is mistaken, however admirable his motives might be. ●

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Sue the Bastards . . . Or Not

Daphne Eviatar

THE RULE OF LAWYERS: HOW THE NEW LITIGATION ELITE THREATENS AMERICA'S RULE OF LAW
by Walter K. Olson
St. Martin's Press, 2002 352 pp $25.95

DEMOCRACY BY DECREE: WHAT HAPPENS WHEN COURTS RUN GOVERNMENT
by Ross Sandler and David Schoenbrod
Yale University Press, 2002 256 pp $30

Poor McDonald's. First, an elderly woman sues the company when she spills a cup of hot coffee. Then, the parents of overweight teenagers bring a federal case because their daughters ate too many Big Macs. Won't anyone just let the fast-food giant sell Chicken McNuggets in peace?

It's no wonder the company seems to have won the public's sympathy. Stories of supposedly frivolous lawsuits fly from headline news to late-night television barbs, illustrating yet again an American legal system that lets greedy citizens make deep-pocket corporations pay for their own mistakes. Never mind that the teenagers' case was dismissed, or that the woman who spilled her coffee actually suffered third-degree burns and permanent scarring over 16 percent of her body. Most of the facts don't make the front pages, so even liberals tend to view our legal system as a repository for whiners' complaints. This, even though the number of civil cases filed in the United States has been on the decline for the past decade.

But it's no accident that so many believe otherwise. Billions of businesses' dollars are at stake. Corporate-backed advocacy groups and conservative think tanks work hard to portray lawsuits against corporations as a symbol of a fundamental breakdown of American values. The Manhattan Institute, for example, has a special Center for Legal Policy dedicated to providing a pulpit for preaching this view.

Perhaps the best-known of these preachers is Walter K. Olson. Although not a lawyer himself, he's made a remarkable career out of bashing the profession. A senior fellow at the Manhattan Institute, he's spread the word through newspaper editorials, magazine articles, a Web site—overlawyered.com—and now, his third book. In *The Rule of Lawyers: How the New Litigation Elite Threatens America's Rule of Law*, Olson recasts the Dickensian view of shady lawyers lurking in the murky Court of Chancery into an image of modern-day trial lawyers who hungrily circle the corporate cookie jar, scheming up ways to get their hands in.

Olson isn't targeting all lawyers, though. Indeed, he has nothing negative to say about the defenders of big business. Rather, his target is the far smaller group of "trial lawyers"—those who represent injured people challenging corporations. Presenting himself as a populist—the Rush Limbaugh or Bill O'Reilly of legal critics—Olson's work is so biased and poorly documented that it's tempting to dismiss him as insignificant. But that would be a mistake, for Olson's book represents a mounting effort by the right to roll back hard-won gains made in the last four decades toward improving access to the legal system for ordinary people. That movement is now receiving a warm welcome in Washington.

In Olson's view, the problems date back to the 1960s. Before then, high costs and procedural burdens made it difficult for ordinary people to challenge corporations in court. To Olson, that was as it should be. The troubles began when misguided liberals created new legal rights and made it easier for individuals to go to court to enforce them. Responding to

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consumer advocates like Ralph Nader, politicians and judges changed the rules to require corporations that were sued to turn over relevant documents, for example, and to let injured people sue in the state where they lived. In 1977, the Supreme Court allowed lawyers to advertise—or as Olson puts it, to "chase business." Congress soon allowed class actions, allowing lawyers to represent more efficiently large groups of injured people who shared essentially the same claims against the same companies. While liberals hail these developments as expanding access to justice, Olson laments that they jump-started a downward slide for corporate freedom, enticing the "American legal establishment" into its current "love affair with the lawsuit."

The results, he believes, have been tragic. As consumer protection law developed, for example, courts "began to find 'defectiveness,' not just when a product was manufactured in a way that departed from its intended design (with loose bolt screws, say, or an adulterating ingredient), but also when a product's design itself was considered to fall short of what a court decided would be socially beneficial."

This is how, for instance, families of crash victims sued Ford for hundreds of deaths caused by its 1971 Pinto—the kind of case liberals champion and conservatives love to hate. The Pinto was a cute little compact that functioned just fine under pristine conditions. Unfortunately, it had a tendency to blow up when rear-ended, because Ford had placed the fuel tank dangerously close to the rear axle. Although the company realized the danger during testing, Ford was eager to roll out its cheap new car quickly; it concluded that the costs of some deadly accidents wouldn't be great enough to justify spending five to eight dollars per vehicle to fix the problem. Products liability law allowed those who suffered from that decision to hold the company responsible.

This sort of thing outrages Olson, who devotes the bulk of his book to attacking the lawyers who sue manufacturers of dangerous products, such as tobacco, guns, asbestos, and lead paint. Making the wholly unsupported claim that such cases are the "fastest-growing share of the docket," Olson mocks every one of them in a sort of back-slapping attempt to convince readers to join in the fun. With chapters titled "The Joy of Tobacco Fees," "Stacked: the Breast Implant Affair," and "The Art of the Runaway Jury," Olson presents each case as a veiled attempt at extortion by "the new litigation elite."

But it's not just lawyers whom Olson attacks. In the asbestos cases, for example, it's also the workers and unions, who should have known that asbestos caused fatal lung disease. Sure, the leading asbestos manufacturers concealed the health hazards and even prohibited doctors from telling patients they were developing asbestos-related diseases. Still, writes Olson, workers, encouraged by their unions, assumed that risk so they could have a job. Should they and their survivors, through schemes cooked up by "the wealthiest and most powerful private lawyers in the history of the world," be heard to complain about it years later?

Even lawyers who lose come in for Olson's scorn. Lawsuits against gun manufacturers, for example, have largely failed. Still, Olson is galled that anyone would try to hold manufacturers responsible for problems like the absence of safety locks on firearms or the deliberate distribution of guns to corrupt dealers who sell to violent felons. At one point, Smith & Wesson, to get out of a class action lawsuit, offered to adopt various safety measures. The National Rifle Association then boycotted the company, devastating its stock price and destroying the proposed settlement. Instead of blaming the powerful gun lobby for killing the attempt to advance gun safety, Olson lambastes the lawyers for their interference in what he believes should be an unfettered firearms market.

Although he doesn't admit it, Olson's real objection is not to lawyers, but to allowing law to meddle in the market at all. While he makes much of the high earnings of a handful of top trial lawyers, for example, his failure even to mention the multimillion-dollar salaries of corporate defenders and the executives they represent undermines the credibility of his protests. Nor is he concerned about whether claims against any of these industries actually have merit. (Many do, but Olson's one-sided portrayal based on se-

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lective news accounts makes it impossible for the reader to tell.) Olson apparently believes the legal system ought not interfere in this area at all. Lawyers are too manipulative, juries too unpredictable, and judges too unprincipled to rein them all in. It is one of the many ironies of his position that although Olson wants individuals to assume responsibility for their own conduct, he's dismissive of any notion that corporations should bear responsibility for theirs.

One might ask, are lawsuits really the best way to hold corporations responsible? Probably not. They're expensive and time-consuming, which is why most injured people never file them. The government could, as other countries do, pass more explicit product safety laws and create stronger bureaucracies to enforce them. But that's not the American way. Americans don't trust big government and are reluctant to pay for it. And the manufacturers of dangerous products lobby hard to make sure that politicians don't try to change that.

Which is, of course, how modern tort law began. When elected officials refused to regulate businesses during the Industrial Revolution, the courts finally stepped in. It's thanks to lawsuits that manufacturers stopped putting asbestos in insulation and lead in housepaint. Lawsuits are a big part of why cigarette smoking has declined in the United States, and the threat of them may yet convince McDonald's to create a healthier hamburger.

That's why the right is now pushing so hard for so-called "tort reform." Despite its progressive connotation, the proposals to limit lawsuits now circulating in Congress and promoted by George W. Bush are anything but. While some seek wholesale exemption from liability for a particular industry (gun makers, for example), most are couched as procedural tinkering to make the system more "fair." But the vast majority merely limit the ability of ordinary people to challenge big business.

The left often laments the ideological gulf between itself and even the most liberal Democrats in office. But the right doesn't have that problem. In the "tort reform" movement, the ideological right has converged seamlessly with the political right. Through seemingly innocuous changes to things like statutes of limitations, damage amounts, attorneys' fees, or pleadings requirements, Republicans are stealthily advancing the right's anti-statist libertarian ideology.

This movement is extending beyond tort law. Scholars and judges are now questioning enforcement of some of the most fundamental federal laws that grant civil rights and access to basic government services. Are federal laws actually enforceable, or do they symbolize mere "aspirations," which politicians can choose to implement or ignore at their convenience? That's the question raised by Ross Sandler and David Schoenbrod in their new book, *Democracy by Decree: What Happens When Courts Run Government*. Born-again conservatives—they describe themselves as former activists who saw the light—these New York Law School professors argue for a dramatic cutback in enforcement of federal law.

Sandler and Schoenbrod take aim at lawyers working for advocacy groups who file lawsuits to improve government. Although they are former environmental lawyers, the authors here target those who represent the downtrodden—prisoners, foster children, or the disabled, for example. Like Olson, they lament the liberalization of court rules in the sixties and seventies that made it easier for lawyers to sue state and local governments under federal law.

The authors focus on "institutional reform" cases, where lawyers sue government agencies for violating not merely one law, but a whole list of them. These cases usually settle, with both sides hammering out a detailed agreement that the court must approve and enforce. But herein lies the problem, the authors warn. Such plans create a "controlling group" of lawyers, who work "behind closed doors" and "wield the power of office without running for office." This is the dreaded "democracy by decree."

Schoenbrod and Sandler note the usual justification for such cases: some groups don't have political power, and in the past, local governments sometimes didn't enforce laws passed to protect them. Federal courts had to force states to desegregate their school systems and improve brutal prison conditions, for example. But the authors claims these arguments are

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outmoded: "Many voices previously not heard find powerful expression today in the elected and executive branches of state and local government as evidenced by the wide diversity among mayors, governors, legislators, and appointed officials—a success partly attributable to the nation's voting rights laws." Since they're unable to support that point, they add that in any event, class-action lawsuits "proved much less successful than its proponents admit, undermining the claim that people will be underserved without it."

THE AUTHORS cite no evidence to support that claim, either. A systematic analysis of the impact of these lawsuits would have been useful, but Sandler and Schoenbrod don't bother. Rather, like Olson, they select and skew a handful of anecdotes to portray class-action lawsuits against government agencies as an unwarranted intrusion into the purity of the democratic process. Just as Olson sees tort law as undue meddling in the free market, Sandler and Schoenbrod view civil rights advocates and federal judges as an annoying intrusion on local politics. That is, of course, consistent with the growing conservative states' rights agenda. But rather than argue that point, these authors couch it in a spurious critique of misguided left-wing lawyers and egocentric federal judges.

Sandler and Schoenbrod base their argument on a handful of examples of court enforcement of federal legislation that supposedly created anti-democratic outcomes. The Americans with Disabilities Act, for example, required cities to eliminate architectural barriers that made many public spaces inaccessible to people in wheelchairs. But according to the authors, the law—passed only because "few lobbies in Washington are as powerful as that for the disabled community"—should never have been taken literally. Apparently, many cities didn't: they ignored the law's mandates for years. Advocates eventually sued, and federal judges ordered the cities to make specific changes—to cut curb ramps, for instance, so that people with disabilities could use the public sidewalks. To Sandler and Schoenbrod, this was an outrage. Never mind the wheelchair-bound; judges shouldn't get involved in such details of law enforcement. That's particularly true, they argue, because the ADA is an "unfunded mandate" on the states.

But that wasn't the case for the Education for All Handicapped Children Act, passed in 1975 to ensure that disabled children receive an education. In fact, the federal government provided up to 40 percent of the funding for states' educational programs. Still, the authors devote an entire chapter to condemning a case brought against New York City to enforce the law. The case, known as *José P. v. Mills*, began when lawyers learned that four years after the education law was passed, fourteen thousand disabled children were still waiting to be evaluated and assigned to New York City schools. The lawyers sued on behalf of the children, naming as the lead plaintiff a deaf, mute, and spastic fifteen-year-old who had never been assessed for his needs. The city, conceding it was violating the law, soon settled the case and agreed to make major changes recommended by its own expert.

To some, that would sound like a happy outcome. But to the authors, it was the start of a problem more serious than the city's educational failures. The settlement of the case created a "controlling group" of lawyers to monitor the agreement and recommend changes until the city complied. Because so many New York City children need special education, and the system is chronically underfunded, an amended version of the decree—and the "controlling group"—remains in

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place today. To Sandler and Schoenbrod, this is an affront to democracy. City officials should be allowed to run the educational system as they see fit—no matter that they'd proven unable or unwilling to do so in accordance with the law.

Unfortunately, the authors are so taken with the idea of uninhibited local control that they seem to have forgotten that American government includes a democratically elected Congress with the power to pass laws that apply to the states. Because Congress can't create big government bureaucracies to enforce the laws, it often grants individuals the right to privately enforce them by filing lawsuits. That's not, as the authors contend, antidemocratic: on the contrary, if there were no way to enforce democratically adopted laws, they wouldn't have very much meaning.

Despite its misleading title, this book is not about advancing democracy. Rather, the authors object to the federal government's passing laws governing civil rights and social services at all. In their view, the system worked far better when the only enforceable rights were those that protected private property: "Rights are the 'good fences' that make 'good neighbors,' " they write. Then along came the sixties and seventies, when Congress began passing laws and judges issued rulings creating "soft rights"—the kind where government was actually required to do something for the public—such as providing an education or a humane prison system. These, write Sandler and Schoenbrod, are not really rights, but "aspirations." Sure, Congress can pass these laws, but courts have no business enforcing them.

Aside from the principled objection to considering congressional mandates as mere "puffery," as the authors call them, this view has serious practical consequences. Take the recent tragic case of Faheem Williams, the seven-year-old found dead with his two half-starved brothers in a relative's basement in Newark, New Jersey, last January. Although the family was supposed to be under the watch of the state's child welfare agency, state child welfare workers had such absurdly high caseloads that they weren't able to keep track of, let alone visit, the children in their care; they hadn't seen the Williams children in eighteen months. That was a violation of federal law. But that's just the sort of detailed requirement that Sandler and Schoenbrod would have the federal courts ignore.

Unfortunately, an increasingly conservative federal judiciary and legislature may be inclined to see it their way. And so long as the dilemma is presented as one about the meddling of intrusive judges and lawyers, few—even on the left—are likely to object. That's unfortunate. For the questions these books raise are not about lawyers at all. They are fundamentally about who will have access to the justice system, and whether courts will continue to enforce the law in all of the cases that get there. ●

Daphne Eviatar is a Brooklyn-based writer and lawyer and a contributing editor at the *American Lawyer*.

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On the Secrets of Isaac Babel

Steven J. Zipperstein

THE COMPLETE WORKS OF ISAAC BABEL
by Isaac Babel; Nathalie Babel, ed.
Peter Constantine, translator
W.W. Norton, 2001 1076 pp $45

He was a squat man. He wore thick glasses. Photographs captured him badly—none make it clear why he was so popular with women. Memoirists insist that his seemingly benign, even flabby looks could inspire intense fear. Some fifty years ago Lionel Trilling judged Isaac Babel as looking rather like either a "Chinese merchant," or a "successful Hollywood writer," or a "typical" Jewish intellectual. "It is," wrote Trilling of Babel's face, the kind "which many Jews used to aspire to have, or hoped their sons would have." Babel's close friend Konstantin Paustovsky is still more vivid and more than mildly deprecating: "Stooping, almost neckless . . . with a duck's bill of a nose, a creased forehead and an oily glint in his little eyes, he was anything but fascinating." Why so many who write about him write so much about his appearance is by no means the greatest mystery surrounding Babel and his brilliant but still much debated literary legacy.

The release of this meticulously edited, well-translated, and apparently definitive volume of Babel's is, of course, a cause for celebration. Until now, Babel's fiction had appeared in the English language in mostly thin, tentative volumes, awaiting always the inclusion of his unpublished work, hundreds and hundreds of pages, one hoped, which he had hidden away until the time of his arrest in 1939. It seems that this plump, handsome book contains all his existing writing, including the very few unpublished manuscripts—screenplays, fragments of an unfinished novel—located once the implosion of communism made thorough literary research into his life and work possible. Beautiful to hold, and a meticulous work of scholarship, it is more complete than the two-volume Russian edition of his work that appeared in the early nineties. It includes two valuable essays by his daughter, Nathalie Babel, a very useful chronology of his life by the eminent Slavic scholar Gregory Frieden (there is no full-length biography of him in any language), and a characteristically probing, ferociously intelligent introductory essay by Cynthia Ozick. The translation is a bit stiff at times, but, on the whole, impressive.

Still, the book's publication is more than a bit dismaying. It means that his remaining unpublished writings (twenty-seven folders of manuscripts that were seized at the time of his arrest) have been deemed unrecoverable, and, consequently, it is unlikely that the many uncertainties that surround him—literary, biographical, even, on some level, moral— will be put to rest. Trilling, in his essay on Babel— an essay packed with errors mostly because of misinformation supplied by Babel himself in several coy sketches of his own life—perceived even then that what most set Babel's work apart was its extraordinarily artful use of secrets.

The secrets Trilling had in mind, in particular, were the uncertainties left in the wake of Babel's stunning, mosaic-like portrait in *Red Cavalry* of the Polish-Soviet War of 1919-1920. How he felt here about the Russian Revolution, the goodness of man, Jews, violence, bourgeois values, or values at all he leaves unclear. The book was built around its contradictory, confounding stances toward these and other critical and (in Soviet Russia already at the time it appeared in the mid-twenties) rather dangerous topics. Babel leaves the reader often stunned by his intermittent inhumanity, his incorrigible sentimentality, his deep attach-

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ment to Jews, his breezy indifference to Jews, and his love and horror in the face of revolutionary upheaval. In *Red Cavalry*, he has his protagonist—who seems, at least at times, very much an autobiographical stand-in—muse about how keenly he wishes for the ability to kill his fellow man. The sentence pierces the heart like the power Babel attributes elsewhere, in his story "Guy de Maupassant," to the uncanny, stunning resonance of skillful punctuation: "No iron spike can pierce a human heart as icily as a period in the right place." Picking out stray lines from Babel stories in an effort to encapsulate his essential message is, if you will, as useless as choosing stray passages from the Talmud to illuminate the fundamental teachings of the rabbis.

THE MYSTERIES surrounding Babel are far thicker and far less tractable now than Trilling could ever have known. Especially in the wake of the discovery and publication about fifteen years ago of the diary he kept while first sketching out *Red Cavalry*, the various, jagged interconnections in Babel between fact and fantasy, conviction and opportunism, decency and elusiveness, between art and life remain painfully, probably chronically unclear. (The diary, included in this volume, amply shows, for example, how far more deeply attached Babel felt to the pillaged Jews of Galicia than he revealed in *Red Cavalry*, where, for both artistic and, perhaps, political reasons the narrator maintained a sometimes puzzling, and also tantalizing distance.) It is not surprising that his daughter, Nathalie Babel, who, along with his second wife has done so much to sustain literary interest in Babel over the years, admits in an essay on her father not included in this volume:

> I grew up wishing that someday, somewhere, a door would open and my father would come in. We would recognize each other immediately, and without seeming surprised, without letting him catch his breath, I would say: "Well, here you are at last. We've been puzzled about you for so long; although you left behind much love and devotion, you bequeathed to us very few facts. It's so good to have you here. Do sit down and tell us what happened."

His daughter (who lived with her mother, Babel's first wife, in Paris, and who knew her father only distantly, and saw him only during his sporadic stays abroad) hungers here for knowledge not altogether different from that which bedevils still Babel's biographers and literary critics. The two, in Babel's case, at least, seem less at odds with one another than is typical these days, both aware that the insistence on sequestering this man's life from his art would render both hollow, even inexplicable. Biographical chasms here make literary analysis particularly slippery—Babel lied often, skillfully, even joyfully about the details of his life and, in the meantime, wrote fiction that was profoundly, but by no means transparently autobiographical.

To the extent to which sense might be made of such things, Babel was killed because he was unwilling or unable to sacrifice literature on the altar of expediency in a Soviet world where, by the late thirties, the absence of principle was a principle itself. (He was taken away in the middle of the night, in May 1939 and shot several months later after a hurried trial.) He had tried hard to fit into the new Russian reality; at the time of his arrest he was deputy chairman of the editorial board of the State Literary Publishing House. He had a dacha in the writer's colony Peredelkino, a driver for his car, and a maid. He knew well powerful politicians; his close friend—the consummate fellow traveler, Maxim Gorky—shielded Babel from harm, until his death in 1936. As Babel wrote his family abroad, in the mid-thirties, "Nowadays, writing doesn't mean sitting at one's table. It means rushing all over the country, participating in active life, doing research, establishing close contact with some enterprise, and suffering a constant sense of impotence at one's inability to be everywhere one ought to be."

His letters abroad were, not surprisingly, cautious, carefully coded, written for many, different eyes to see. He spoke frankly, particularly in his acknowledgment of the desire "to be everywhere one ought to be." This was born, no doubt, out of his uncommonly intense curiosity—Babel would, as a matter of course, ask women he met if he might rifle through their purses to inspect their contents. It was also a byproduct of what Babel took away from his

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Jewish childhood in late czarist Russia. His was a childhood punctuated by random, sometimes brutal humiliations and especially by a gnawing sense of exclusion from membership in a larger community that would eat at him and inspire him as a writer in the new, at first vigorously, eventually intrusively inclusive reality of the Bolshevik twenties.

These influences meant that he sought—despite a penchant for the bohemian, a taste for life on the edge that he could not quite abandon—never to be excluded again. They conspired to keep Babel in Stalin's Russia even after so many close to him were exiled or silenced. And they conspired also to keep him willing to render himself useful, an ever-elusive, but nonetheless active presence in the Soviet literary world where the ambiguous position he insisted on occupying became, as time passed, less and less credible. In particular, the "unbridled curiosity with which he scrutinized life and people" (this is how Nadezhda Mandelstamm summed him up) spelled all-but-certain doom. Eager to interrogate, to probe those who lived at the edge, he even sought out, in the late thirties and shortly before his own arrest, the much-feared secret police. He explained that he consorted with them "to have a sniff and see what it smells like," much as he had years earlier in *Red Cavalry* gravitated toward the violence, the interplay, as he saw it, between grace and intuition among the justly feared Cossacks.

The exploration by Russian writers in the twenties of the tension between old and new, between a collectivist personality and the rebellious pre-revolutionary *intelligent*, even the rapid move (that so many have seen as distinct to Babel's prose) from sordidness to lyricism were themselves typical features of the period. Babel's fascination with Odessa, whose half-Russian, half-Ukrainian, and also Jewish intonation he recreated in stories about Jewish childhood and graceful, improbably articulate gangsters, was itself part and parcel of the standard literary scene (Ilf and Petrov, Paustovsky, and Katayev all probed, in various ways, much the same terrain). Babel's relationship with Odessa was especially intense (he was, as one of his more astute interpreters, Shimon Markish, put it, "caressed by the Odessa accent"), and it is now almost impossible to recall the city without mentioning him. His relationship to it is akin to Joyce's relationship to Dublin, although immeasurably more affectionate, more alert to its cramped and provincial but abiding charms.

While his themes are, on the whole, familiar, it is his stunning, unlikely juxtapositions that render Babel's work most distinct. As the critic V. Shklovsky put it, "Babel's principle device is to speak in the same tone of voice about the stars above and gonorrhea." This commitment to reconcile apparent contradictions—between Jews and Cossacks (he creates in Benya Krik, of course, a Jewish Cossack hero of sorts), between humanism and Leninism, between a profound commitment to the past and a belief in the power and promise of the future, underlines all his work. He insisted, despite all evidence to the contrary, on conflating the essential teachings of the Jews and the Cossacks: "The wisdom of my forefathers," he writes, "was ingrained in me: we have been born to delight in labor, fighting, and love. That is what we have been born for, and nothing else."

This vision could not flourish in the thirties, when Babel went, effectively, silent as a writer producing much that was stored away in a trunk in his Moscow flat, but that never saw the light of day. Yet he never abandoned any of it, though this increasingly meant he published less and less, and what he did publish in the last decade of his life missed often his characteristic panache. Never could he abandon his preoccupation with Jews; he was, in the late thirties, translating Sholem Aleichem into Russian, which, he admitted, was one of the very few literary tasks at the time that he thoroughly enjoyed. As Markish puts it, Babel was as much a Russian Jewish writer as Saul Bellow is an American Jewish one.

Babel offered the promise of engagement in community, but always at a distance, never without the ability to measure the ambiguity of one's deepest, most sustained relationships. In "The Awakening," perhaps Babel's most widely reprinted story, the child protagonist abandons violin lessons (which his desperate

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Jewish father prays will rescue the family from obscurity, which, in his mind, is immeasurably worse than poverty) for the pleasures of swimming and consorting with Gentile waterfront urchins. He learns that, though he hopes to write, he knows nothing of nature, nothing of the names of trees, the stars, or the sea. "In my childhood, nailed to the Gemara, I led the life of a sage, and it was only later, when I was older, that I began to climb trees." His sin discovered, his family humiliated, his father brought to the verge of violence as the child locks himself in the bathroom, he is then escorted in the dead of night by his aunt through the streets of the city:

> I sat in my fortress till nightfall. When everybody had gone to bed, Auntie Bobka took me to my grandmother's. It was a long walk. The moonlight froze on unknown shrubs, on nameless trees. An invisible bird whistled once, and then was quiet, perhaps it had fallen asleep. What kind of bird was it? What was it called? Was there dew in the evenings? Where was the constellation of the Great Bear in the sky? On what side did the sun rise?
>
> We walked along Pochtovaya Street. Auntie Bobka held my hand tightly so that I wouldn't run away. She was right. I was thinking of running away.

It is just this moment, this longing to escape while clutching tightly at the hands he will never entirely flee, to which he will turn repeatedly in his fiction. He did so with an astonishing facility to probe its complexity, its poignancy, and, always, its mysterious beauty, which, for him, wasn't the same as nostalgia. Many of his interpreters have sought somehow to firm up, never with any success, his stance toward specific, concrete aspects of politics, or culture, or ethnicity that he only knew to explore in their manifold shades. Babel had no hidden, secretly cherished position on the revolution, or on Jews, or pleasure, or sin; he explored these themes, all close to his heart and at the core of his literary imagination, by circling around them, picking at them, but never resolving them. He studied closely, and with great intensity and often startling acuity, those who resolved contradictions with the sweep of a sword, with the barrel of a gun, or the penning of an ideological pamphlet. He examined their resolve, it fascinated him deeply, and he sought to understand it thoroughly. That, however, was not what he himself would ever do.

The closest he came to a self-portrait of the disparate, contradictory aspects he juggled in his fictional imagination—which was for Babel, it seems, what others called one's soul—is in the character Ilya, the final story of *Red Cavalry*. The narrator meets him in the prayer house of Ilya's father, a hasidic rebbe, with whom he establishes instant banter and rapport; at the corner of the room sits, shivering, the rebbe's son, Ilya, a lad with the face of Spinoza, a heretic shunned by the motley assembly. The narrator spots him again, months later, in a crowd of Russian soldiers retreating from the front after a disastrous battle with the Poles. He is dying. The narrator pulls him onto his railway car, and his belongings fall onto the floor. Babel's description

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is as lyrical, as devoid of ambivalence or irony as anything he ever wrote. These are the closing paragraphs:

> I threw everything together in a jumble, the mandates of the political agitator and the mementos of a Jewish poet. Portraits of Lenin and Maimonides lay side by side—the gnarled steel of Lenin's skull and the listless silk of Maimonides' portrait. A lock of woman's hair lay in the resolutions of the Sixth Party Congress, and a crooked line of Ancient Hebrew verse were huddled in the margins of Communist pamphlets. Pages of *The Song of Songs* and revolver cartridges drizzled on me in a sad, sparse rain. . .
>
> He died before we reached Rovno. He died, the last prince, amid poems, phylacteries, and foot bindings. We buried him at a desolate train station. And I, who can barely harness the storms of fantasy raging through my ancient body, I received my brother's last breath.

The story is addressed to Vasily; he is mentioned four times in as many pages ("Do you remember Zhitomir, Vasily?" is how it begins). He is, it would seem, an unidentified Russian It is not far-fetched to see him also as the very same Russian whom Babel knew read, sometimes with bemusement or hostility or shock, the not infrequently bitter, always frank, sometimes transparently loving portraits of things Jewish in his fiction. Russian Jewish fiction had, since its first appearance in the mid-nineteenth century, been acutely aware, often overwhelmed by this gaze, and, as a result, so much of it was self-conscious and cramped in ways that, not infrequently, diminished it, in contrast to Yiddish or Hebrew literature. Babel refused to edit out of his fiction those intimate, uneasy things acknowledged by Jews to one another behind closed doors, in the clammy privacy of third-class railways cars, or on the pages of Yiddish prose. And he resisted the temptation, on the whole, to hide his ferocious love for his own people. Moreover, Ilya, he insisted, was no less Russian than a character of Chekhov's or Gogol's while he was, at the same time, emphatically Jewish. The future of Russian literature, he predicted in 1916, belonged to Odessa, not foggy, gray St. Petersburg, where "the spicy aroma of acacias and a moon filled with an unwavering, irresistible light" shine; Russian literature's "Messiah, so long awaited, will issue . . . from the sun-drenched steppes washed by the sea." Here was as bald, as transparent a claim for ascendancy as produced by any writer and, in the wake of the last, mostly truly terrible century that savaged his beloved Russia, Babel's voice remains more fresh, arguably more relevant than any other. One now reads Babel's youthful, brash declamation as far from frivolous, one reads it as almost chilling in its pertinence. ●

Steven J. Zipperstein, Koshland Professor in Jewish Culture and History at Stanford University and author of *Imagining Russian Jewry: Memory, History, Identity*, is currently at work on a cultural history of East European and Russian Jewry.

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In Defense of Michael Moore

Editors:

In his article "The Perils of Michael Moore," Kevin Mattson correctly describes his subject as "America's most prominent leftist," a person "living and espousing CIO style politics." Indeed, Moore has the number-one-selling nonfiction book of 2002, received an Academy Award for best documentary film, has made serious inroads into mainstream media outlets, and has made what is probably the single biggest statement against the war. He is one of the most outspoken critics of corporate power in this country, someone who continues to amaze allies and critics alike with his ability to say and do the things that he does—and still receive commercial airplay.

For some inexplicable reason, it seems that what left-wing intellectuals do with someone who emerges from the shadow of obscurity and seriousness that defines the left today is to attack him. Mattson continues the pattern. He argues that Moore's offbeat, in-your-face style is a political failure because he conflates theater with politics and confrontation with long-term solutions. The medium for Moore's messages (muckraking entertainment packaged in prose, oratory, and film) have "distinct limitations," Mattson suggests, that should concern us because it drags the left down into the world of infotainment. Worse, according to Mattson, Moore is actually "dangerous" because he is silly enough to believe that being a comedic rabble-rouser is actually a political statement. "Generating a humorous buzz," concludes Mattson, "doesn't shake things up so much as symbolize powerlessness."

Such criticism is mystifying, predictable, and often wrong. It's predictable because one of the things the left does best is to eat itself alive with its own brand of saber-toothed criticism. The mystifying part, however, is that to criticize Moore for not being movement based or to accuse him of creating depoliticizing entertainment or to cast him as overtly cynical (or some combination of all three) is to posit some other left that is vibrant, democratic, rich in social movements, and imbued with a positive agenda. Right now, I don't see it. Meanwhile, Michael Moore's is a loud, provocative, creative voice in a society that is otherwise absolutely saturated by right-wing blather.

When I worry about the future of the left, it's not because Michael Moore is so prominent, it's because there are not more Moores. He consistently puts forth a potentially unifying message, one that seems to escape those sequestered in the academic left as well as many of those in the weak-kneed Democratic Party. Moore repeats the message tirelessly: that the majority of Americans are pro-choice, pro-equal rights, pro-environment, and pro-labor. Unlike the hand wringing that passes for progressive politics in the journals, that's a platform that will save the left. Mattson is absolutely wrong that Moore is in it for the irony—he's real and we just don't know what to do with that today.

Moore's genius is, in fact, exactly the type of populist anti-intellectualism that Mattson is worried about. Sure, Moore messes with "reality" in his films, he's often more clever than knowledgeable, and he can be as annoying as endearing. But his gift is to stake out a common sense position and, with an earnestness that gets him through all sorts of power gauntlets, find ways to query the powers that be. "Why is it this way, and why can't it be better?" he asks. The results can be brilliant. Moore has the ability to walk a treacherous line between documentary and comedy, between satire and commentary, between farce and reality, between pop and politics. (Moore compares neither to Abbie Hoffman nor Charlie Chaplin, but that's another argument.) But Mattson wants to know where the tangible victories are. That's easy: they can be found in millions of people who find out that they are not alone in their belief that things are not right with the world and that the messages that the mainstream media are sending them are not connecting the dots.

Mattson and other critics of Moore, however, are "worried about what happens to the vision of the left when it plays on the grounds of the sound-bite society." I would counter that there's only one thing more dangerous: ceding that ground to the snarling rhetoric of the right. In an age when the public intellectual is embodied by prejudices of the likes of Fox News Network's Bill O'Reilly or MSNBC's Michael Savage, we are in dire need of our own blowhard. Todd Gitlin, in the *American Prospect* (February 2003), has lamented the lack of lefty bigmouths to penetrate the thicket of right-wing commentary on the

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airwaves. Where, Gitlin asks, might the "talented liberal loudmouths learn to raise their voices, overcome their ambivalence and mop the floor with the right's shoddy arguments? Would they take off the gloves and remind their audiences who their opponents are?" Although you can disagree with Moore on policy or candidate choice or a host of other issues, this is exactly the role he already plays and for which we should thank him. If the left is going to win anything—especially the next generation of young people—it is going to have to get its hands dirty in the world of pop and commercial culture.

The truly strange thing is that Mattson's arguments could just as easily be turned on the academic left: we have lots of books and interesting ideas, we dabble in causes, but where's the movement? Isn't it just as "dangerous" and "cynical" to over-intellectualize politics as it is to poke fun at it? The big difference between us and Moore, however, is that intellectuals can remain safe and smug and puritanical about what others, like Michael Moore, are doing to try to fight back.

The key is to move beyond a Michael Moore, yes-or-no presentation of the problem. It would be more constructive to whatever future the left may have to think, "Isn't it great that Michael Moore is out there raising questions?" Then we can organize something, get behind some candidates, stop some injustice, and, who knows, maybe Michael Moore will show up for our rally so thousands of others will find out about the cause. Some people write books, some people make cool movies, some people write poems, some people run for city council, some people do research, some people teach school, some organize movements. Why can't there be a vast, wonderful division of labor within progressive politics today? There's certainly plenty of room out there.

Jefferson Cowie
Ithaca, N.Y.

Editors:

Kevin Mattson's critical appraisal of "Michael Moore's Message" in your Spring 2003 issue was one of the most exasperating exercises in political nitpicking that I've seen in a long time. I'm not an acquaintance of Moore but I'm sure, like most of us, he has his share of personal and professional shortcomings. Mattson, however, turns real and imagined flaws in Moore's books, films, and television work into a downside totally disproportionate to their positive impact.

There are not many other progressives around at the moment who have the ability to make important political points, humorously and effectively, before a broad audience. (Jim Hightower and Barbara Ehrenreich are fellow members of this exclusive club.) In the midst of the current American occupation of Iraq and related saber-rattling elsewhere in the world, I'm glad that *Bowling for Columbine* is still playing in local movie theaters—no matter how "decontextualized" its historical account of U.S. military intervention may be, according to Mattson.

Mattson argues that Moore's satirical jousting with various symbols of corporate power reflects "cynicism about the possibility of politics today" and "avoids the hard work of forming movements that could press for change." By the latter standard, how would Mattson judge the practical political effectiveness of most *Dissent* editorial board members or contributors? Like Moore, they are generally not grassroots organizers or movement-builders either but, rather, journalists, professors, critics, and academic researchers who are loosely allied with people who actually do such work.

In my experience, Moore has been quite supportive of labor activists seeking "long-term political solutions" that go beyond the humorous shtick of trying to confront big business bad guys in the lobby of their office building—a frequently used confrontational tactic of unions and community groups, by the way.

Before *The Big One* was released several years ago, Moore allowed Jobs With Justice, a workers rights coalition backed by the Communications Workers and other unions, to hold fundraising screenings in Boston and other cities. The director appeared at several of these well-attended and (for JWJ) lucrative gatherings—giving no sign whatsoever of being "anti-politics" or disengaged from

FILL IN THE GAPS

As Michael Walzer notes in "The Last Page," the *Dissent* archives will soon be online. Almost fifty years worth of issues have been sent to the scanner, except for some numbers of which we have only one or two copies. Scanning destroys a magazine, because the binding has to be cut. Before we give up our last copies, we ask our readers if anyone can send us any of the following:

Summer 1957
Winter 1975
Spring 1975
Summer 1985

If you have one, or more, of these, please send it to us at 310 Riverside Drive, Suite 1201, New York, NY 10025.

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working-class struggles for health care reform and unionization.

Mattson should lighten up and stop looking a gift horse in the mouth. If we had two, three, many Michael Moores, we'd be better off—and the original article wouldn't have to bear the brunt of academic carping that does indeed "sound like sour grapes."

Steve Early
Woburn, Mass.

Ed. Note: The writer is an international representative for the Communications Workers of America.

Kevin Mattson Replies

Before I "lighten up" and accept the "genius" (Cowie) and "gift horse" (Early) that is Michael Moore, just a few words. I agree with Cowie's conclusion to let a thousand flowers bloom in progressive politics. But I also think that intellectuals and critics have a right—indeed a responsibility—to criticize one another. Early doesn't. I should stop "nitpicking" and be joyful that Moore's *Bowling for Columbine* is in the movie theaters, even if Moore gets things wrong and spins out a thesis that I find at best incomprehensible and at worst irresponsible (notice there's no defense of Moore's argument in the film, simply that it's in theaters). Is it wrong to say that Noam Chomsky's accounting of 9/11 was, well, wrong? Is it wrong to say that Moore's playing around with decontextualized imagery and his explanations are wrong? Or is it wrong or just nitpicking to accuse him of political cynicism when he uses the term "Republicrats"—an idea that plenty of young people took up to vote George W. Bush, I mean Ralph Nader, into office, seeing as Gore was no different from Bush (except on abortion, Social Security, international politics, and other unimportant matters)? Ideas do have consequences and implications. To hold a figure like Moore responsible for that strikes me as sensible, maybe even, God forbid, necessary. It's better to address those problems than to make excuses for people because they happen to have politics similar to ours (or maybe I just can't get down with Moore's "populist anti-intellectualism," as Cowie claims). "Sure, Moore messes with 'reality' in his films," Cowie admits. Point well taken. Is it wrong for someone who wants to see a strong and responsible left to criticize that? Lord, save us if it is.

ERRATA

Our thanks to sharp-eyed readers who pointed out some errors in recent issues. Myra Russel writes that John Rodden's account of the FBI file on Irving Howe (Fall 2002) misstated the date of the Smith Act. It was adopted by Congress in 1940 and was first used against Trotskyists, members of the Socialist Workers Party and their supporters in Minneapolis Teamsters Local 544, rather than communists. At the time, the communists supported this use of the Smith Act, which was later used against them.

Seymour Yellin takes us to task for getting Max Shachtman's name wrong in Joe Gladstone's tribute letter for Gordon Haskell (Spring 2003) and points out that Gordon did not become editor of *Labor Action* in 1950, but was the business manager and a contributor. Hal Draper was the last editor of the paper, which ceased publication in 1958.

On Homocons and Misreadings

Editors:

It's not often that *Dissent* focuses on issues related to gay and lesbian politics. At best indifferent and at worst querulous before the aspirations and achievements of the gay rights movement, *Dissent* frequently has lagged behind other progressive journals and magazines when it comes to matters of gay and lesbian concerns. As a longtime reader, I have looked in vain in your pages for thoughtful considerations of issues such as AIDS and sexual minorities, gay people in the military, the rise of scholarship known as "Queer Theory," or the new legal theorizing concerning gay rights. Still, nothing prepared me for Bob Berens's dismissive, confused, and bellicose review of Richard Goldstein's *The Attack Queers*. Choosing to focus almost entirely on the issue of misrepresentation of quotes (a subject that Goldstein has answered at length in the letters page of the *Nation*, which published an excerpt from *The Attack Queers*), Berens deliberately distorts or ignores Goldstein's crucial points. The most important and original of these is that the popular media prefer to highlight and promote the views of gay conservatives out of a deep anxiety and animosity toward gay people that are pervasive in American culture, even among the so-called "liberal elite." (This view is echoed, incidentally, in Eric Alterman's recent *What Liberal Media?*, which, like Goldstein's book, questions the popular media's preference for conservative gay pundits.) For Berens, though, "Gay contrarians such as Paglia and Sullivan . . . offer a valuable public service. Without the 'attack queers' Goldstein speaks of, the media discourse

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on homosexuality would be a tiresome litany of scolding and sermonizing, rather than an open and honest—and yes, occasionally offensive—debate." Note that the progressive critique of homophobia is caricatured (dare I point out, in familiar, right-wing terms?) as shrill, boring, bossy, and dishonest. Needless to say, the editors of *Dissent* would be unlikely to allow a writer to declare in its pages that, on the subject of, say, women's rights or racism or anti-Semitism, an "honest" debate drawing on explicitly sexist, racist, or anti-Semitic assumptions is welcome. But the real shocker comes in the last lines of Berens's review where, after instructing readers that there is no possible connection to be found between the political realm and the sphere of sexuality, he mocks as self-indulgent and even pointless any attempt to think about the sources for homophobia in our society and culture: "One can theorize endlessly about the connection between the development of a person's sexuality and political beliefs," snarls Berens, "But it's hard to see this relationship as of any political or public value; it is a personal and an aesthetic understanding of self, better suited to a navel-gazing memoir than a radical polemic."

So much for the progressive tradition in meditating on the topic of same-sex desire, from Jeremy Bentham and Edward Carpenter to Adrienne Rich and Michel Foucault. And so much for the efforts of progressive critics to attempt to locate in our unstated cultural and social assumptions the causes for incidents such as the killing of Matthew Shepard and numerous other hate crimes. Those poor, deluded gay radicals, eager to manufacture a progressive critique out of their "private" and "aesthetic" erotic selves but doomed to "navel-gazing."

One has to conclude that Richard Goldstein's argument is not radical enough. Clearly it's not just the popular media that harbors conflicted and antagonistic views of homosexual men and women. It's also those who like to see themselves as members of the party of *Dissent*.

Richard A. Kaye
New York, N.Y

AN ALL-AMERICAN PASTIME

For the Boston Red Sox, the Clubhouse Blowup has over the last quarter-century been as reliable a summer fixture as the August collapse. Generally the debates have been over whether Yaz is a fathead or Lynn's a malingerer or Roger deserves his pay. But this season the whole team—along with the sports staffs of the *Boston Herald* and the *Boston Globe*—finds itself roiled by the question of the proper response to tyranny in the Middle East, as if the Bosox had somewhow mistaken themselves for the editorial board of *Dissent*.

Christopher Caldwell,
Weekly Standard, April 30, 2003

Editors:

Bob Berens's review of my book is grounded in a remarkably obtuse reading of Camille Paglia. He overlooks the ample evidence of her contempt for lesbianism. To cite a typical example: "When a man becomes gay, he gains 20 IQ points. When a woman becomes gay, she loses 20 IQ points." For Paglia, masculinity is the matrix of creativity while lesbianism is "too often intellectually enervating, tending toward the inert." By ignoring many statements like these, Berens can claim that I misrepresented the intention of Paglia's comment urging lesbians to "open that thing toward men." Clearly this is another of her attacks on female-centered sexuality. Just because she offers a mythopoeic rationale for her view doesn't make it less sexist or phobic.

A more serious omission is Berens's failure to deal with a major thesis in my book, which concerns the tie that binds Paglia and Andrew Sullivan. The fact that she is a Democrat and he a Republican doesn't preclude their adherence to a common sexual politics. At its core is a mystification of macho. By ignoring this crucial link, which I examine at length, Berens can claim that I chose to attack Paglia and Sullivan out of personal pique. But masculinism is a defining principle of modern conservatism, homo and hetero alike. It allows that movement's fundamentalist and libertarian wings to cohere. Berens's blindness to the profound impact of misogyny hearkens back to an old benighted attitude on the left. I'm afraid it still has legs.

Richard Goldstein
New York, N.Y.

Bob Berens Replies

Richard Kaye's reaction to seeing a critical take on gay leftism in the pages of Dissent, in the absence of a substantial positive tradition, is understandable. But I don't think his argument fairly represents my review of Richard Goldstein's book.

He claims that I "distort or ignore" Goldstein's central thesis, but neglects to point out any contradiction between his reading and my own. If he would look again, he'd see that I summarize Goldstein's central thesis—that conservative gays are granted disproportionate prominence in the media—and leave it pretty much unchallenged. I never deny that part of Sullivan's or Paglia's

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popularity can be linked to establishment unease or ambivalence about homosexuality. Indeed, I find the book interesting and insightful as social and cultural criticism, despite some incidental disagreements. What I took issue with was Goldstein's method, not his conclusion. Despite its occasional brilliance, *The Attack Queers* left a bad taste, because it scores its points off Sullivan and Paglia et al. cheaply. It is one thing to point out flaws and inconsistencies in their opinions or their work. But as satisfying as it may feel to label gay conservatives—or African-American conservatives, for that matter—as traitors to their kind, I don't think it's a productive contribution to the discourse of minority rights. Isn't it wiser to reach some consensus on a few key issues? On the policy issues that most directly affect gays and lesbians today: adoption rights, hospital visitation rights, the right to marry, the right to serve in the military, Sullivan and Goldstein are not in substantial disagreement.

As for Kaye's contention that I was somehow arguing for a permissive attitude toward public expressions of homophobia, I'm once again tempted to refer him back to what I actually wrote. Does a defense of the so-called "homocons" somehow equal a defense of homophobia? Though some cases are easy enough to identify, homophobia is often in the eye of the beholder. We would probably agree, for instance, that Senator Rick Santorum's recent comments were hateful and bigoted, but we would almost certainly get into a debate about Eminem. Before we collectively light a torch to the work of particular conservatives, reactionaries, and, yes, homophobes, we need first to reach a consensus as to what actually constitutes a homophobic thought or expression. As I think this exchange proves, we aren't there yet.

His final disagreement rests on a misunderstanding of what I was trying to say, for which I may be partially responsible. I in no way meant to suggest that the connection between sexuality and society isn't worth exploring, only that as a standard by which to judge public intellectuals or commentators it falls short.

As someone who lives in one of the most liberal parts of the country, I understand that homophobia and discrimination are relatively muted here, and that I owe much of my own comfort and freedom to the struggles of activists and radicals of the past. It is on such grounds that Goldstein's argument against the influence of Sullivan is justified, even essential. But the way in which Goldstein distorts Sullivan's arguments, and pathologizes his conservatism as inverted self-hatred is, to me, not so easy to ignore.

As for Richard Goldstein's challenge, I am not in complete disagreement. There is a consistent strain of implicit—and explicit—sexism in Paglia's writings, and it is fair to point out that the "mythopoeic" mode with which she expresses it disarms most consumers of her work. But I wasn't taking him to task for that aspect of his analysis; I was pointing out a misquotation. There is a difference between saying "stop being a lesbian" and saying "I'm not saying stop being a lesbian." In the context of addressing a liberal audience, it's the difference between being provocative and being off-the-charts offensive. I don't dispute that Paglia may be hostile to the language of gay self-identification, but I do wonder why Goldstein felt the need to amp up such elements of her work through the compression and, I'd argue, conscious distortion of her words.

To Letter Writers

● *We welcome succinct letters from our readers. But because we have a long lead time for each issue, you have to send us your letter within three weeks of getting an issue of* Dissent *in order to get it into the next issue.*

● ***Letters must be no more than 500 words,*** *typed, double-spaced, and carry the full address and name of the sender. We reserve the right to edit letters down to fit our space and to choose which shall be printed. We are unable to acknowledge letters. Letters will not be returned to senders unless they are accompanied by stamped, self-addressed envelopes. We accept e-mail submissions to editors@dissentmagazine.org, but request that you provide a street address and phone number.*

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SOMETIME SOON, the forty-nine years of *Dissent* will be available online—every article in every issue. Right now, we post a number of key articles on our Web site as soon as the "real" issue—paper, ink, and glue—appears; and after a few weeks, we post more articles; and a few weeks later, more again. Someone who lives on the Internet doesn't need the actual magazine. And lots of people live on the Internet; the number is growing steadily. Soon we will have ask ourselves whether there is any point to the paper, ink, and glue.

I am a lover of magazines. A fairly indiscriminate lover: flimsy weeklies, glossy monthlies, heavy (but pugnacious) quarterlies—I love them all. I am less fond of academic journals, but the closer they come to magazines, the more ready they are to print letters, invite arguments and counter-arguments, risk topicality, the easier it is for me to make my peace with them. It's not just the content that warms my heart; maybe it's not the content at all. In fact, there are many magazines that I hate reading; I disagree fiercely with the articles they print; I wish their editors, as Irving Howe once said, many years of political failure. But I love the form of a magazine, the platonic idea of a magazine: that it is written for the moment; that it speaks to today's urgencies; that you can carry it around; and that you can, in anger, throw it across the room.

But sometime soon *Dissent* will be available on my Palm Pilot (of course I don't have a Palm Pilot, but sometime soon I might have one), and I will be able to carry the Palm Pilot around and even throw it across the room. So, again, what is the point of the actual magazine, the material object, the paper, ink, and glue? Why not a virtual *Dissent*, floating in cyberspace? It would be much cheaper—no printing costs, no mailing costs. It wouldn't take up space on my bookshelf. Sometime soon I won't need a bookshelf.

There already are virtual magazines, and they possess the virtues of a magazine to the nth degree: they are far more responsive than any printed magazine can possibly be to the urgencies of the moment. They respond, one might say, to the urgencies of the second. They are infinitely updatable. Reading them is a breathless and, potentially, an endless experience. Why do I, as a lover of magazines, find the experience so unsatisfying?

According to the Oxford English Dictionary, the original meaning of the word "virtual" (which comes to us from the Latin, via late Middle English) is "possessed of certain physical virtues." Well, there's the problem: virtual magazines have no physical virtues. Reading them, I feel dispossessed. And I realize now that this isn't only because I can't hold the real thing and turn the actual pages. It is also because I value this finite object, where writers have committed themselves to these ideas and arguments, which I can read, and finish reading, and put aside (or throw away). And then I wait for the next issue. The waiting is a good thing. It gives me time to think about what I've just read—and it gives the magazine's writers time to think about what they will write next.

And this valuable time between issues is closely connected to the physical reality of each issue, which has to be edited, printed, bound, and mailed. The virtue of paper, ink, and glue is also the virtue of ideas and arguments given material form, fixed in time and space. That's what a real magazine is. It can't be updated; it is finished, for the week or the month or the quarter. We writers hold forth in these pages that you hold in your hand, and we accept the risk that you will hold us to be wrong. Wait for the next issue; we will get it right one day—really, not virtually, right.

MICHAEL WALZER

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